

CERTIFICATION OF ENROLLMENT
ENGROSSED THIRD SUBSTITUTE HOUSE BILL 3900

55th Legislature
1997 Regular Session

Passed by the House April 26, 1997
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 26, 1997
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED THIRD SUBSTITUTE HOUSE BILL 3900** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED THIRD SUBSTITUTE HOUSE BILL 3900

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Sheahan, Ballasiotes, Schoesler, Bush, Honeyford, Carrell, Chandler, Mitchell, Clements, Huff, Thompson, Hankins, Mulliken, Koster, Carlson, Cairnes, Cooke, Johnson, Skinner, Mastin, Smith, Crouse, Benson, Alexander, Talcott, Robertson, Lisk, Zellinsky, Boldt, Delvin, Sterk, Lambert, Hickel, Backlund and Pennington)

Read first time 03/10/97 (Introduced with Senate Sponsors).

1 AN ACT Relating to offenders; amending RCW 5.60.060, 9.94A.040,
2 13.04.011, 13.40.010, 13.40.0357, 13.40.0357, 13.40.040, 13.40.045,
3 13.40.050, 13.40.060, 13.40.070, 13.40.077, 13.40.100, 13.40.110,
4 13.40.130, 13.40.135, 13.40.150, 13.40.160, 13.40.190, 13.40.193,
5 13.40.200, 13.40.210, 13.40.230, 13.40.250, 13.40.265, 13.40.320,
6 13.50.010, 13.50.050, 72.01.410, 72.09.460, 9A.36.045, 9A.36.050,
7 9.41.010, 9.41.040, 9.94A.103, 9.94A.105, 9.94A.310, 10.99.020,
8 10.99.040, 10.99.050, 82.44.110, 69.50.520, and 13.40.080; reenacting
9 and amending RCW 9.94A.030, 9.94A.120, 9.94A.360, 13.04.030, 13.40.020,
10 13.40.020, 9.94A.320, and 9A.46.060; adding new sections to chapter
11 13.40 RCW; adding a new section to chapter 70.96A RCW; adding a new
12 section to chapter 72.01 RCW; adding a new section to chapter 43.121
13 RCW; creating new sections; repealing RCW 9.94A.045, 13.40.025,
14 13.40.075, 13.40.125, and 13.40.0354; prescribing penalties; providing
15 effective dates; providing expiration dates; and declaring an
16 emergency.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

18 **Sec. 1.** RCW 5.60.060 and 1996 c 156 s 1 are each amended to read
19 as follows:

1 (1) A husband shall not be examined for or against his wife,
2 without the consent of the wife, nor a wife for or against her husband
3 without the consent of the husband; nor can either during marriage or
4 afterward, be without the consent of the other, examined as to any
5 communication made by one to the other during marriage. But this
6 exception shall not apply to a civil action or proceeding by one
7 against the other, nor to a criminal action or proceeding for a crime
8 committed by one against the other, nor to a criminal action or
9 proceeding against a spouse if the marriage occurred subsequent to the
10 filing of formal charges against the defendant, nor to a criminal
11 action or proceeding for a crime committed by said husband or wife
12 against any child of whom said husband or wife is the parent or
13 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:
14 PROVIDED, That the spouse of a person sought to be detained under
15 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
16 be so informed by the court prior to being called as a witness.

17 (2)(a) An attorney or counselor shall not, without the consent of
18 his or her client, be examined as to any communication made by the
19 client to him or her, or his or her advice given thereon in the course
20 of professional employment.

21 (b) A parent or guardian of a minor child arrested on a criminal
22 charge may not be examined as to a communication between the child and
23 his or her attorney if the communication was made in the presence of
24 the parent or guardian. This privilege does not extend to
25 communications made prior to the arrest.

26 (3) A member of the clergy or a priest shall not, without the
27 consent of a person making the confession, be examined as to any
28 confession made to him or her in his or her professional character, in
29 the course of discipline enjoined by the church to which he or she
30 belongs.

31 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,
32 a physician or surgeon or osteopathic physician or surgeon shall not,
33 without the consent of his or her patient, be examined in a civil
34 action as to any information acquired in attending such patient, which
35 was necessary to enable him or her to prescribe or act for the patient,
36 except as follows:

37 (a) In any judicial proceedings regarding a child's injury,
38 neglect, or sexual abuse or the cause thereof; and

1 (b) Ninety days after filing an action for personal injuries or
2 wrongful death, the claimant shall be deemed to waive the physician-
3 patient privilege. Waiver of the physician-patient privilege for any
4 one physician or condition constitutes a waiver of the privilege as to
5 all physicians or conditions, subject to such limitations as a court
6 may impose pursuant to court rules.

7 (5) A public officer shall not be examined as a witness as to
8 communications made to him or her in official confidence, when the
9 public interest would suffer by the disclosure.

10 (6)(a) A peer support group counselor shall not, without consent of
11 the law enforcement officer making the communication, be compelled to
12 testify about any communication made to the counselor by the officer
13 while receiving counseling. The counselor must be designated as such
14 by the sheriff, police chief, or chief of the Washington state patrol,
15 prior to the incident that results in counseling. The privilege only
16 applies when the communication was made to the counselor while acting
17 in his or her capacity as a peer support group counselor. The
18 privilege does not apply if the counselor was an initial responding
19 officer, a witness, or a party to the incident which prompted the
20 delivery of peer support group counseling services to the law
21 enforcement officer.

22 (b) For purposes of this section, "peer support group counselor"
23 means a:

24 (i) Law enforcement officer, or civilian employee of a law
25 enforcement agency, who has received training to provide emotional and
26 moral support and counseling to an officer who needs those services as
27 a result of an incident in which the officer was involved while acting
28 in his or her official capacity; or

29 (ii) Nonemployee counselor who has been designated by the sheriff,
30 police chief, or chief of the Washington state patrol to provide
31 emotional and moral support and counseling to an officer who needs
32 those services as a result of an incident in which the officer was
33 involved while acting in his or her official capacity.

34 (7) A sexual assault advocate may not, without the consent of the
35 victim, be examined as to any communication made by the victim to the
36 sexual assault advocate.

37 (a) For purposes of this section, "sexual assault advocate" means
38 the employee or volunteer from a rape crisis center, victim assistance
39 unit, program, or association, that provides information, medical or

1 legal advocacy, counseling, or support to victims of sexual assault,
2 who is designated by the victim to accompany the victim to the hospital
3 or other health care facility and to proceedings concerning the alleged
4 assault, including police and prosecution interviews and court
5 proceedings.

6 (b) A sexual assault advocate may disclose a confidential
7 communication without the consent of the victim if failure to disclose
8 is likely to result in a clear, imminent risk of serious physical
9 injury or death of the victim or another person. Any sexual assault
10 advocate participating in good faith in the disclosing of records and
11 communications under this section shall have immunity from any
12 liability, civil, criminal, or otherwise, that might result from the
13 action. In any proceeding, civil or criminal, arising out of a
14 disclosure under this section, the good faith of the sexual assault
15 advocate who disclosed the confidential communication shall be
16 presumed.

17 **Sec. 2.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are
18 each reenacted and amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Collect," or any derivative thereof, "collect and remit," or
22 "collect and deliver," when used with reference to the department of
23 corrections, means that the department is responsible for monitoring
24 and enforcing the offender's sentence with regard to the legal
25 financial obligation, receiving payment thereof from the offender, and,
26 consistent with current law, delivering daily the entire payment to the
27 superior court clerk without depositing it in a departmental account.

28 (2) "Commission" means the sentencing guidelines commission.

29 (3) "Community corrections officer" means an employee of the
30 department who is responsible for carrying out specific duties in
31 supervision of sentenced offenders and monitoring of sentence
32 conditions.

33 (4) "Community custody" means that portion of an inmate's sentence
34 of confinement in lieu of earned early release time or imposed pursuant
35 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
36 controls placed on the inmate's movement and activities by the
37 department of corrections.

1 (5) "Community placement" means that period during which the
2 offender is subject to the conditions of community custody and/or
3 postrelease supervision, which begins either upon completion of the
4 term of confinement (postrelease supervision) or at such time as the
5 offender is transferred to community custody in lieu of earned early
6 release. Community placement may consist of entirely community
7 custody, entirely postrelease supervision, or a combination of the two.

8 (6) "Community service" means compulsory service, without
9 compensation, performed for the benefit of the community by the
10 offender.

11 (7) "Community supervision" means a period of time during which a
12 convicted offender is subject to crime-related prohibitions and other
13 sentence conditions imposed by a court pursuant to this chapter or RCW
14 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
15 may include crime-related prohibitions and other conditions imposed
16 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
17 for out-of-state supervision of parolees and probationers, RCW
18 9.95.270, community supervision is the functional equivalent of
19 probation and should be considered the same as probation by other
20 states.

21 (8) "Confinement" means total or partial confinement as defined in
22 this section.

23 (9) "Conviction" means an adjudication of guilt pursuant to Titles
24 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
25 acceptance of a plea of guilty.

26 (10) "Court-ordered legal financial obligation" means a sum of
27 money that is ordered by a superior court of the state of Washington
28 for legal financial obligations which may include restitution to the
29 victim, statutorily imposed crime victims' compensation fees as
30 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
31 drug funds, court-appointed attorneys' fees, and costs of defense,
32 fines, and any other financial obligation that is assessed to the
33 offender as a result of a felony conviction. Upon conviction for
34 vehicular assault while under the influence of intoxicating liquor or
35 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
36 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
37 legal financial obligations may also include payment to a public agency
38 of the expense of an emergency response to the incident resulting in
39 the conviction, subject to the provisions in RCW 38.52.430.

1 (11) "Crime-related prohibition" means an order of a court
2 prohibiting conduct that directly relates to the circumstances of the
3 crime for which the offender has been convicted, and shall not be
4 construed to mean orders directing an offender affirmatively to
5 participate in rehabilitative programs or to otherwise perform
6 affirmative conduct.

7 (12)((~~(a)~~)) "Criminal history" means the list of a defendant's
8 prior convictions and juvenile adjudications, whether in this state, in
9 federal court, or elsewhere. The history shall include, where known,
10 for each conviction ((~~(i)~~)) (a) whether the defendant has been placed
11 on probation and the length and terms thereof; and ((~~(ii)~~)) (b) whether
12 the defendant has been incarcerated and the length of incarceration.

13 (~~((b) "Criminal history" shall always include juvenile convictions~~
14 ~~for sex offenses and serious violent offenses and shall also include a~~
15 ~~defendant's other prior convictions in juvenile court if: (i) The~~
16 ~~conviction was for an offense which is a felony or a serious traffic~~
17 ~~offense and is criminal history as defined in RCW 13.40.020(9); (ii)~~
18 ~~the defendant was fifteen years of age or older at the time the offense~~
19 ~~was committed; and (iii) with respect to prior juvenile class B and C~~
20 ~~felonies or serious traffic offenses, the defendant was less than~~
21 ~~twenty-three years of age at the time the offense for which he or she~~
22 ~~is being sentenced was committed.))~~)

23 (13) "Day fine" means a fine imposed by the sentencing judge that
24 equals the difference between the offender's net daily income and the
25 reasonable obligations that the offender has for the support of the
26 offender and any dependents.

27 (14) "Day reporting" means a program of enhanced supervision
28 designed to monitor the defendant's daily activities and compliance
29 with sentence conditions, and in which the defendant is required to
30 report daily to a specific location designated by the department or the
31 sentencing judge.

32 (15) "Department" means the department of corrections.

33 (16) "Determinate sentence" means a sentence that states with
34 exactitude the number of actual years, months, or days of total
35 confinement, of partial confinement, of community supervision, the
36 number of actual hours or days of community service work, or dollars or
37 terms of a legal financial obligation. The fact that an offender
38 through "earned early release" can reduce the actual period of

1 confinement shall not affect the classification of the sentence as a
2 determinate sentence.

3 (17) "Disposable earnings" means that part of the earnings of an
4 individual remaining after the deduction from those earnings of any
5 amount required by law to be withheld. For the purposes of this
6 definition, "earnings" means compensation paid or payable for personal
7 services, whether denominated as wages, salary, commission, bonuses, or
8 otherwise, and, notwithstanding any other provision of law making the
9 payments exempt from garnishment, attachment, or other process to
10 satisfy a court-ordered legal financial obligation, specifically
11 includes periodic payments pursuant to pension or retirement programs,
12 or insurance policies of any type, but does not include payments made
13 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
14 or Title 74 RCW.

15 (18) "Drug offense" means:

16 (a) Any felony violation of chapter 69.50 RCW except possession of
17 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
18 controlled substance (RCW 69.50.403);

19 (b) Any offense defined as a felony under federal law that relates
20 to the possession, manufacture, distribution, or transportation of a
21 controlled substance; or

22 (c) Any out-of-state conviction for an offense that under the laws
23 of this state would be a felony classified as a drug offense under (a)
24 of this subsection.

25 (19) "Escape" means:

26 (a) Escape in the first degree (RCW 9A.76.110), escape in the
27 second degree (RCW 9A.76.120), willful failure to return from furlough
28 (RCW 72.66.060), willful failure to return from work release (RCW
29 72.65.070), or willful failure to be available for supervision by the
30 department while in community custody (RCW 72.09.310); or

31 (b) Any federal or out-of-state conviction for an offense that
32 under the laws of this state would be a felony classified as an escape
33 under (a) of this subsection.

34 (20) "Felony traffic offense" means:

35 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
36 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
37 and-run injury-accident (RCW 46.52.020(4)); or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a felony
3 traffic offense under (a) of this subsection.

4 (21) "Fines" means the requirement that the offender pay a specific
5 sum of money over a specific period of time to the court.

6 (22)((~~(a)~~)) "First-time offender" means any person who is convicted
7 of a felony ((~~(i)~~)) (a) not classified as a violent offense or a sex
8 offense under this chapter, or ((~~(ii)~~)) (b) that is not the
9 manufacture, delivery, or possession with intent to manufacture or
10 deliver a controlled substance classified in schedule I or II that is
11 a narcotic drug, nor the manufacture, delivery, or possession with
12 intent to deliver methamphetamine, its salts, isomers, and salts of its
13 isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit
14 of any controlled substance or counterfeit substance classified in
15 schedule I, RCW 69.50.204, except leaves and flowering tops of
16 marihuana, ((~~and except as provided in (b) of this subsection,~~)) who
17 previously has never been convicted of a felony in this state, federal
18 court, or another state, and who has never participated in a program of
19 deferred prosecution for a felony offense.

20 ((~~(b) For purposes of (a) of this subsection, a juvenile~~
21 ~~adjudication for an offense committed before the age of fifteen years~~
22 ~~is not a previous felony conviction except for adjudications of sex~~
23 ~~offenses and serious violent offenses.~~))

24 (23) "Most serious offense" means any of the following felonies or
25 a felony attempt to commit any of the following felonies, as now
26 existing or hereafter amended:

27 (a) Any felony defined under any law as a class A felony or
28 criminal solicitation of or criminal conspiracy to commit a class A
29 felony;

30 (b) Assault in the second degree;

31 (c) Assault of a child in the second degree;

32 (d) Child molestation in the second degree;

33 (e) Controlled substance homicide;

34 (f) Extortion in the first degree;

35 (g) Incest when committed against a child under age fourteen;

36 (h) Indecent liberties;

37 (i) Kidnapping in the second degree;

38 (j) Leading organized crime;

39 (k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

(24) "Nonviolent offense" means an offense which is not a violent offense.

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(26) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

1 (ii) Has, before the commission of the offense under (a) of this
2 subsection, been convicted as an offender on at least two separate
3 occasions, whether in this state or elsewhere, of felonies that under
4 the laws of this state would be considered most serious offenses and
5 would be included in the offender score under RCW 9.94A.360; provided
6 that of the two or more previous convictions, at least one conviction
7 must have occurred before the commission of any of the other most
8 serious offenses for which the offender was previously convicted; or

9 (b)(i) Has been convicted of (A) rape in the first degree, rape in
10 the second degree, or indecent liberties by forcible compulsion; (B)
11 murder in the first degree, murder in the second degree, kidnapping in
12 the first degree, kidnapping in the second degree, assault in the first
13 degree, assault in the second degree, or burglary in the first degree,
14 with a finding of sexual motivation; or (C) an attempt to commit any
15 crime listed in this subsection (27)(b)(i); and

16 (ii) Has, before the commission of the offense under (b)(i) of this
17 subsection, been convicted as an offender on at least one occasion,
18 whether in this state or elsewhere, of an offense listed in (b)(i) of
19 this subsection.

20 (28) "Postrelease supervision" is that portion of an offender's
21 community placement that is not community custody.

22 (29) "Restitution" means the requirement that the offender pay a
23 specific sum of money over a specific period of time to the court as
24 payment of damages. The sum may include both public and private costs.
25 The imposition of a restitution order does not preclude civil redress.

26 (30) "Serious traffic offense" means:

27 (a) Driving while under the influence of intoxicating liquor or any
28 drug (RCW 46.61.502), actual physical control while under the influence
29 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
30 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
31 or

32 (b) Any federal, out-of-state, county, or municipal conviction for
33 an offense that under the laws of this state would be classified as a
34 serious traffic offense under (a) of this subsection.

35 (31) "Serious violent offense" is a subcategory of violent offense
36 and means:

37 (a) Murder in the first degree, homicide by abuse, murder in the
38 second degree, assault in the first degree, kidnapping in the first
39 degree, or rape in the first degree, assault of a child in the first

1 degree, or an attempt, criminal solicitation, or criminal conspiracy to
2 commit one of these felonies; or

3 (b) Any federal or out-of-state conviction for an offense that
4 under the laws of this state would be a felony classified as a serious
5 violent offense under (a) of this subsection.

6 (32) "Sentence range" means the sentencing court's discretionary
7 range in imposing a nonappealable sentence.

8 (33) "Sex offense" means:

9 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
10 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
11 criminal attempt, criminal solicitation, or criminal conspiracy to
12 commit such crimes;

13 (b) A felony with a finding of sexual motivation under RCW
14 9.94A.127 or 13.40.135; or

15 (c) Any federal or out-of-state conviction for an offense that
16 under the laws of this state would be a felony classified as a sex
17 offense under (a) of this subsection.

18 (34) "Sexual motivation" means that one of the purposes for which
19 the defendant committed the crime was for the purpose of his or her
20 sexual gratification.

21 (35) "Total confinement" means confinement inside the physical
22 boundaries of a facility or institution operated or utilized under
23 contract by the state or any other unit of government for twenty-four
24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

25 (36) "Transition training" means written and verbal instructions
26 and assistance provided by the department to the offender during the
27 two weeks prior to the offender's successful completion of the work
28 ethic camp program. The transition training shall include instructions
29 in the offender's requirements and obligations during the offender's
30 period of community custody.

31 (37) "Victim" means any person who has sustained emotional,
32 psychological, physical, or financial injury to person or property as
33 a direct result of the crime charged.

34 (38) "Violent offense" means:

35 (a) Any of the following felonies, as now existing or hereafter
36 amended: Any felony defined under any law as a class A felony or an
37 attempt to commit a class A felony, criminal solicitation of or
38 criminal conspiracy to commit a class A felony, manslaughter in the
39 first degree, manslaughter in the second degree, indecent liberties if

1 committed by forcible compulsion, kidnapping in the second degree,
2 arson in the second degree, assault in the second degree, assault of a
3 child in the second degree, extortion in the first degree, robbery in
4 the second degree, drive-by shooting, vehicular assault, and vehicular
5 homicide, when proximately caused by the driving of any vehicle by any
6 person while under the influence of intoxicating liquor or any drug as
7 defined by RCW 46.61.502, or by the operation of any vehicle in a
8 reckless manner;

9 (b) Any conviction for a felony offense in effect at any time prior
10 to July 1, 1976, that is comparable to a felony classified as a violent
11 offense in (a) of this subsection; and

12 (c) Any federal or out-of-state conviction for an offense that
13 under the laws of this state would be a felony classified as a violent
14 offense under (a) or (b) of this subsection.

15 (39) "Work crew" means a program of partial confinement consisting
16 of civic improvement tasks for the benefit of the community of not less
17 than thirty-five hours per week that complies with RCW 9.94A.135. The
18 civic improvement tasks shall have minimal negative impact on existing
19 private industries or the labor force in the county where the service
20 or labor is performed. The civic improvement tasks shall not affect
21 employment opportunities for people with developmental disabilities
22 contracted through sheltered workshops as defined in RCW 82.04.385.
23 Only those offenders sentenced to a facility operated or utilized under
24 contract by a county or the state are eligible to participate on a work
25 crew. Offenders sentenced for a sex offense as defined in subsection
26 (33) of this section are not eligible for the work crew program.

27 (40) "Work ethic camp" means an alternative incarceration program
28 designed to reduce recidivism and lower the cost of corrections by
29 requiring offenders to complete a comprehensive array of real-world job
30 and vocational experiences, character-building work ethics training,
31 life management skills development, substance abuse rehabilitation,
32 counseling, literacy training, and basic adult education.

33 (41) "Work release" means a program of partial confinement
34 available to offenders who are employed or engaged as a student in a
35 regular course of study at school. Participation in work release shall
36 be conditioned upon the offender attending work or school at regularly
37 defined hours and abiding by the rules of the work release facility.

1 (42) "Home detention" means a program of partial confinement
2 available to offenders wherein the offender is confined in a private
3 residence subject to electronic surveillance.

4 **Sec. 3.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read
5 as follows:

6 (1) A sentencing guidelines commission is established as an agency
7 of state government.

8 (2) The legislature finds that the commission, having accomplished
9 its original statutory directive to implement this chapter, and having
10 expertise in sentencing practice and policies, shall:

11 (a) Evaluate state sentencing policy, to include whether the
12 sentencing ranges and standards are consistent with and further:

13 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

14 (ii) The intent of the legislature to emphasize confinement for the
15 violent offender and alternatives to confinement for the nonviolent
16 offender.

17 The commission shall provide the governor and the legislature with
18 its evaluation and recommendations under this subsection not later than
19 December 1, 1996, and every two years thereafter;

20 (b) Recommend to the legislature revisions or modifications to the
21 standard sentence ranges, state sentencing policy, prosecuting
22 standards, and other standards. If implementation of the revisions or
23 modifications would result in exceeding the capacity of correctional
24 facilities, then the commission shall accompany its recommendation with
25 an additional list of standard sentence ranges which are consistent
26 with correction capacity;

27 (c) Study the existing criminal code and from time to time make
28 recommendations to the legislature for modification;

29 (d)(i) Serve as a clearinghouse and information center for the
30 collection, preparation, analysis, and dissemination of information on
31 state and local adult and juvenile sentencing practices; (ii) develop
32 and maintain a computerized adult and juvenile sentencing information
33 system by individual superior court judge consisting of offender,
34 offense, history, and sentence information entered from judgment and
35 sentence forms for all adult felons; and (iii) conduct ongoing research
36 regarding adult and juvenile sentencing guidelines, use of total
37 confinement and alternatives to total confinement, plea bargaining, and

1 other matters relating to the improvement of the adult criminal justice
2 system and the juvenile justice system;

3 (e) Assume the powers and duties of the juvenile disposition
4 standards commission after June 30, 1996;

5 (f) Evaluate the effectiveness of existing disposition standards
6 and related statutes in implementing policies set forth in RCW
7 13.40.010 generally, specifically review the guidelines relating to the
8 confinement of minor and first offenders as well as the use of
9 diversion, and review the application of current and proposed juvenile
10 sentencing standards and guidelines for potential adverse impacts on
11 the sentencing outcomes of racial and ethnic minority youth;

12 (g) Solicit the comments and suggestions of the juvenile justice
13 community concerning disposition standards, and make recommendations to
14 the legislature regarding revisions or modifications of the standards
15 (~~((in accordance with RCW 9.94A.045))~~). The evaluations shall be
16 submitted to the legislature on December 1 of each odd-numbered year.
17 The department of social and health services shall provide the
18 commission with available data concerning the implementation of the
19 disposition standards and related statutes and their effect on the
20 performance of the department's responsibilities relating to juvenile
21 offenders, and with recommendations for modification of the disposition
22 standards. The office of the administrator for the courts shall
23 provide the commission with available data on diversion and
24 dispositions of juvenile offenders under chapter 13.40 RCW; and

25 (h) Not later than December 1, 1997, and at least every two years
26 thereafter, based on available information, report to the governor and
27 the legislature on:

28 (i) Racial disproportionality in juvenile and adult sentencing;

29 (ii) The capacity of state and local juvenile and adult facilities
30 and resources; and

31 (iii) Recidivism information on adult and juvenile offenders.

32 (3) Each of the commission's recommended standard sentence ranges
33 shall include one or more of the following: Total confinement, partial
34 confinement, community supervision, community service, and a fine.

35 (4) The standard sentence ranges of total and partial confinement
36 under this chapter are subject to the following limitations:

37 (a) If the maximum term in the range is one year or less, the
38 minimum term in the range shall be no less than one-third of the
39 maximum term in the range, except that if the maximum term in the range

1 is ninety days or less, the minimum term may be less than one-third of
2 the maximum;

3 (b) If the maximum term in the range is greater than one year, the
4 minimum term in the range shall be no less than seventy-five percent of
5 the maximum term in the range; and

6 (c) The maximum term of confinement in a range may not exceed the
7 statutory maximum for the crime as provided in RCW 9A.20.021.

8 (5) The commission shall exercise its duties under this section in
9 conformity with chapter 34.05 RCW.

10 **Sec. 4.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c
11 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as
12 follows:

13 When a person is convicted of a felony, the court shall impose
14 punishment as provided in this section.

15 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
16 of this section, the court shall impose a sentence within the sentence
17 range for the offense.

18 (2) The court may impose a sentence outside the standard sentence
19 range for that offense if it finds, considering the purpose of this
20 chapter, that there are substantial and compelling reasons justifying
21 an exceptional sentence.

22 (3) Whenever a sentence outside the standard range is imposed, the
23 court shall set forth the reasons for its decision in written findings
24 of fact and conclusions of law. A sentence outside the standard range
25 shall be a determinate sentence.

26 (4) A persistent offender shall be sentenced to a term of total
27 confinement for life without the possibility of parole or, when
28 authorized by RCW 10.95.030 for the crime of aggravated murder in the
29 first degree, sentenced to death, notwithstanding the maximum sentence
30 under any other law. An offender convicted of the crime of murder in
31 the first degree shall be sentenced to a term of total confinement not
32 less than twenty years. An offender convicted of the crime of assault
33 in the first degree or assault of a child in the first degree where the
34 offender used force or means likely to result in death or intended to
35 kill the victim shall be sentenced to a term of total confinement not
36 less than five years. An offender convicted of the crime of rape in
37 the first degree shall be sentenced to a term of total confinement not
38 less than five years. The foregoing minimum terms of total confinement

1 are mandatory and shall not be varied or modified as provided in
2 subsection (2) of this section. In addition, all offenders subject to
3 the provisions of this subsection shall not be eligible for community
4 custody, earned early release time, furlough, home detention, partial
5 confinement, work crew, work release, or any other form of early
6 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
7 or any other form of authorized leave of absence from the correctional
8 facility while not in the direct custody of a corrections officer or
9 officers during such minimum terms of total confinement except in the
10 case of an offender in need of emergency medical treatment or for the
11 purpose of commitment to an inpatient treatment facility in the case of
12 an offender convicted of the crime of rape in the first degree.

13 (5) In sentencing a first-time offender the court may waive the
14 imposition of a sentence within the sentence range and impose a
15 sentence which may include up to ninety days of confinement in a
16 facility operated or utilized under contract by the county and a
17 requirement that the offender refrain from committing new offenses.
18 The sentence may also include up to two years of community supervision,
19 which, in addition to crime-related prohibitions, may include
20 requirements that the offender perform any one or more of the
21 following:

22 (a) Devote time to a specific employment or occupation;

23 (b) Undergo available outpatient treatment for up to two years, or
24 inpatient treatment not to exceed the standard range of confinement for
25 that offense;

26 (c) Pursue a prescribed, secular course of study or vocational
27 training;

28 (d) Remain within prescribed geographical boundaries and notify the
29 court or the community corrections officer prior to any change in the
30 offender's address or employment;

31 (e) Report as directed to the court and a community corrections
32 officer; or

33 (f) Pay all court-ordered legal financial obligations as provided
34 in RCW 9.94A.030 and/or perform community service work.

35 (6)(a) An offender is eligible for the special drug offender
36 sentencing alternative if:

37 (i) The offender is convicted of the manufacture, delivery, or
38 possession with intent to manufacture or deliver a controlled substance
39 classified in Schedule I or II that is a narcotic drug or a felony that

1 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
2 criminal solicitation, or criminal conspiracy to commit such crimes,
3 and the violation does not involve a sentence enhancement under RCW
4 9.94A.310 (3) or (4);

5 (ii) The offender has no prior convictions for a felony in this
6 state, another state, or the United States; and

7 (iii) The offense involved only a small quantity of the particular
8 controlled substance as determined by the judge upon consideration of
9 such factors as the weight, purity, packaging, sale price, and street
10 value of the controlled substance.

11 (b) If the midpoint of the standard range is greater than one year
12 and the sentencing judge determines that the offender is eligible for
13 this option and that the offender and the community will benefit from
14 the use of the special drug offender sentencing alternative, the judge
15 may waive imposition of a sentence within the standard range and impose
16 a sentence that must include a period of total confinement in a state
17 facility for one-half of the midpoint of the standard range. During
18 incarceration in the state facility, offenders sentenced under this
19 subsection shall undergo a comprehensive substance abuse assessment and
20 receive, within available resources, treatment services appropriate for
21 the offender. The treatment services shall be designed by the division
22 of alcohol and substance abuse of the department of social and health
23 services, in cooperation with the department of corrections. If the
24 midpoint of the standard range is twenty-four months or less, no more
25 than three months of the sentence may be served in a work release
26 status. The court shall also impose one year of concurrent community
27 custody and community supervision that must include appropriate
28 outpatient substance abuse treatment, crime-related prohibitions
29 including a condition not to use illegal controlled substances, and a
30 requirement to submit to urinalysis or other testing to monitor that
31 status. The court may require that the monitoring for controlled
32 substances be conducted by the department or by a treatment
33 alternatives to street crime program or a comparable court or agency-
34 referred program. The offender may be required to pay thirty dollars
35 per month while on community custody to offset the cost of monitoring.
36 In addition, the court shall impose three or more of the following
37 conditions:

38 (i) Devote time to a specific employment or training;

1 (ii) Remain within prescribed geographical boundaries and notify
2 the court or the community corrections officer before any change in the
3 offender's address or employment;

4 (iii) Report as directed to a community corrections officer;

5 (iv) Pay all court-ordered legal financial obligations;

6 (v) Perform community service work;

7 (vi) Stay out of areas designated by the sentencing judge.

8 (c) If the offender violates any of the sentence conditions in (b)
9 of this subsection, the department shall impose sanctions
10 administratively, with notice to the prosecuting attorney and the
11 sentencing court. Upon motion of the court or the prosecuting
12 attorney, a violation hearing shall be held by the court. If the court
13 finds that conditions have been willfully violated, the court may
14 impose confinement consisting of up to the remaining one-half of the
15 midpoint of the standard range. All total confinement served during
16 the period of community custody shall be credited to the offender,
17 regardless of whether the total confinement is served as a result of
18 the original sentence, as a result of a sanction imposed by the
19 department, or as a result of a violation found by the court. The term
20 of community supervision shall be tolled by any period of time served
21 in total confinement as a result of a violation found by the court.

22 (d) The department shall determine the rules for calculating the
23 value of a day fine based on the offender's income and reasonable
24 obligations which the offender has for the support of the offender and
25 any dependents. These rules shall be developed in consultation with
26 the administrator for the courts, the office of financial management,
27 and the commission.

28 (7) If a sentence range has not been established for the
29 defendant's crime, the court shall impose a determinate sentence which
30 may include not more than one year of confinement, community service
31 work, a term of community supervision not to exceed one year, and/or
32 other legal financial obligations. The court may impose a sentence
33 which provides more than one year of confinement if the court finds,
34 considering the purpose of this chapter, that there are substantial and
35 compelling reasons justifying an exceptional sentence.

36 (8)(a)(i) When an offender is convicted of a sex offense other than
37 a violation of RCW 9A.44.050 or a sex offense that is also a serious
38 violent offense and has no prior convictions for a sex offense or any
39 other felony sex offenses in this or any other state, the sentencing

1 court, on its own motion or the motion of the state or the defendant,
2 may order an examination to determine whether the defendant is amenable
3 to treatment.

4 The report of the examination shall include at a minimum the
5 following: The defendant's version of the facts and the official
6 version of the facts, the defendant's offense history, an assessment of
7 problems in addition to alleged deviant behaviors, the offender's
8 social and employment situation, and other evaluation measures used.
9 The report shall set forth the sources of the evaluator's information.

10 The examiner shall assess and report regarding the defendant's
11 amenability to treatment and relative risk to the community. A
12 proposed treatment plan shall be provided and shall include, at a
13 minimum:

14 (A) Frequency and type of contact between offender and therapist;

15 (B) Specific issues to be addressed in the treatment and
16 description of planned treatment modalities;

17 (C) Monitoring plans, including any requirements regarding living
18 conditions, lifestyle requirements, and monitoring by family members
19 and others;

20 (D) Anticipated length of treatment; and

21 (E) Recommended crime-related prohibitions.

22 The court on its own motion may order, or on a motion by the state
23 shall order, a second examination regarding the offender's amenability
24 to treatment. The evaluator shall be selected by the party making the
25 motion. The defendant shall pay the cost of any second examination
26 ordered unless the court finds the defendant to be indigent in which
27 case the state shall pay the cost.

28 (ii) After receipt of the reports, the court shall consider whether
29 the offender and the community will benefit from use of this special
30 sexual offender sentencing alternative and consider the victim's
31 opinion whether the offender should receive a treatment disposition
32 under this subsection. If the court determines that this special sex
33 offender sentencing alternative is appropriate, the court shall then
34 impose a sentence within the sentence range. If this sentence is less
35 than eight years of confinement, the court may suspend the execution of
36 the sentence and impose the following conditions of suspension:

37 (A) The court shall place the defendant on community custody for
38 the length of the suspended sentence or three years, whichever is
39 greater, and require the offender to comply with any conditions imposed

1 by the department of corrections under subsection (14) of this section;
2 and

3 (B) The court shall order treatment for any period up to three
4 years in duration. The court in its discretion shall order outpatient
5 sex offender treatment or inpatient sex offender treatment, if
6 available. A community mental health center may not be used for such
7 treatment unless it has an appropriate program designed for sex
8 offender treatment. The offender shall not change sex offender
9 treatment providers or treatment conditions without first notifying the
10 prosecutor, the community corrections officer, and the court, and shall
11 not change providers without court approval after a hearing if the
12 prosecutor or community corrections officer object to the change. In
13 addition, as conditions of the suspended sentence, the court may impose
14 other sentence conditions including up to six months of confinement,
15 not to exceed the sentence range of confinement for that offense,
16 crime-related prohibitions, and requirements that the offender perform
17 any one or more of the following:

18 (I) Devote time to a specific employment or occupation;

19 (II) Remain within prescribed geographical boundaries and notify
20 the court or the community corrections officer prior to any change in
21 the offender's address or employment;

22 (III) Report as directed to the court and a community corrections
23 officer;

24 (IV) Pay all court-ordered legal financial obligations as provided
25 in RCW 9.94A.030, perform community service work, or any combination
26 thereof; or

27 (V) Make recoupment to the victim for the cost of any counseling
28 required as a result of the offender's crime.

29 (iii) The sex offender therapist shall submit quarterly reports on
30 the defendant's progress in treatment to the court and the parties.
31 The report shall reference the treatment plan and include at a minimum
32 the following: Dates of attendance, defendant's compliance with
33 requirements, treatment activities, the defendant's relative progress
34 in treatment, and any other material as specified by the court at
35 sentencing.

36 (iv) At the time of sentencing, the court shall set a treatment
37 termination hearing for three months prior to the anticipated date for
38 completion of treatment. Prior to the treatment termination hearing,
39 the treatment professional and community corrections officer shall

1 submit written reports to the court and parties regarding the
2 defendant's compliance with treatment and monitoring requirements, and
3 recommendations regarding termination from treatment, including
4 proposed community supervision conditions. Either party may request
5 and the court may order another evaluation regarding the advisability
6 of termination from treatment. The defendant shall pay the cost of any
7 additional evaluation ordered unless the court finds the defendant to
8 be indigent in which case the state shall pay the cost. At the
9 treatment termination hearing the court may: (A) Modify conditions of
10 community custody, and either (B) terminate treatment, or (C) extend
11 treatment for up to the remaining period of community custody.

12 (v) If a violation of conditions occurs during community custody,
13 the department shall either impose sanctions as provided for in RCW
14 9.94A.205(2)(a) or refer the violation to the court and recommend
15 revocation of the suspended sentence as provided for in (a)(vi) of this
16 subsection.

17 (vi) The court may revoke the suspended sentence at any time during
18 the period of community custody and order execution of the sentence if:
19 (A) The defendant violates the conditions of the suspended sentence, or
20 (B) the court finds that the defendant is failing to make satisfactory
21 progress in treatment. All confinement time served during the period
22 of community custody shall be credited to the offender if the suspended
23 sentence is revoked.

24 (vii) Except as provided in (a) (viii) of this subsection, after
25 July 1, 1991, examinations and treatment ordered pursuant to this
26 subsection shall only be conducted by sex offender treatment providers
27 certified by the department of health pursuant to chapter 18.155 RCW.

28 (viii) A sex offender therapist who examines or treats a sex
29 offender pursuant to this subsection (8) does not have to be certified
30 by the department of health pursuant to chapter 18.155 RCW if the court
31 finds that: (A) The offender has already moved to another state or
32 plans to move to another state for reasons other than circumventing the
33 certification requirements; (B) no certified providers are available
34 for treatment within a reasonable geographical distance of the
35 offender's home; and (C) the evaluation and treatment plan comply with
36 this subsection (8) and the rules adopted by the department of health.

37 (ix) For purposes of this subsection (8), "victim" means any person
38 who has sustained emotional, psychological, physical, or financial
39 injury to person or property as a result of the crime charged.

1 "Victim" also means a parent or guardian of a victim who is a minor
2 child unless the parent or guardian is the perpetrator of the offense.

3 (x) If the defendant was less than eighteen years of age when the
4 charge was filed, the state shall pay for the cost of initial
5 evaluation and treatment.

6 (b) When an offender commits any felony sex offense on or after
7 July 1, 1987, and is sentenced to a term of confinement of more than
8 one year but less than six years, the sentencing court may, on its own
9 motion or on the motion of the offender or the state, request the
10 department of corrections to evaluate whether the offender is amenable
11 to treatment and the department may place the offender in a treatment
12 program within a correctional facility operated by the department.

13 Except for an offender who has been convicted of a violation of RCW
14 9A.44.040 or 9A.44.050, if the offender completes the treatment program
15 before the expiration of his or her term of confinement, the department
16 of corrections may request the court to convert the balance of
17 confinement to community supervision and to place conditions on the
18 offender including crime-related prohibitions and requirements that the
19 offender perform any one or more of the following:

20 (i) Devote time to a specific employment or occupation;

21 (ii) Remain within prescribed geographical boundaries and notify
22 the court or the community corrections officer prior to any change in
23 the offender's address or employment;

24 (iii) Report as directed to the court and a community corrections
25 officer;

26 (iv) Undergo available outpatient treatment.

27 If the offender violates any of the terms of his or her community
28 supervision, the court may order the offender to serve out the balance
29 of his or her community supervision term in confinement in the custody
30 of the department of corrections.

31 Nothing in this subsection (8)(b) shall confer eligibility for such
32 programs for offenders convicted and sentenced for a sex offense
33 committed prior to July 1, 1987. This subsection (8)(b) does not apply
34 to any crime committed after July 1, 1990.

35 (c) Offenders convicted and sentenced for a sex offense committed
36 prior to July 1, 1987, may, subject to available funds, request an
37 evaluation by the department of corrections to determine whether they
38 are amenable to treatment. If the offender is determined to be
39 amenable to treatment, the offender may request placement in a

1 treatment program within a correctional facility operated by the
2 department. Placement in such treatment program is subject to
3 available funds.

4 (9)(a) When a court sentences a person to a term of total
5 confinement to the custody of the department of corrections for an
6 offense categorized as a sex offense or a serious violent offense
7 committed after July 1, 1988, but before July 1, 1990, assault in the
8 second degree, assault of a child in the second degree, any crime
9 against a person where it is determined in accordance with RCW
10 9.94A.125 that the defendant or an accomplice was armed with a deadly
11 weapon at the time of commission, or any felony offense under chapter
12 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
13 committed on or after July 1, 1988, the court shall in addition to the
14 other terms of the sentence, sentence the offender to a one-year term
15 of community placement beginning either upon completion of the term of
16 confinement or at such time as the offender is transferred to community
17 custody in lieu of earned early release in accordance with RCW
18 9.94A.150 (1) and (2). When the court sentences an offender under this
19 subsection to the statutory maximum period of confinement then the
20 community placement portion of the sentence shall consist entirely of
21 such community custody to which the offender may become eligible, in
22 accordance with RCW 9.94A.150 (1) and (2). Any period of community
23 custody actually served shall be credited against the community
24 placement portion of the sentence.

25 (b) When a court sentences a person to a term of total confinement
26 to the custody of the department of corrections for an offense
27 categorized as a sex offense committed on or after July 1, 1990, but
28 before June 6, 1996, a serious violent offense, vehicular homicide, or
29 vehicular assault, committed on or after July 1, 1990, the court shall
30 in addition to other terms of the sentence, sentence the offender to
31 community placement for two years or up to the period of earned early
32 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
33 longer. The community placement shall begin either upon completion of
34 the term of confinement or at such time as the offender is transferred
35 to community custody in lieu of earned early release in accordance with
36 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
37 this subsection to the statutory maximum period of confinement then the
38 community placement portion of the sentence shall consist entirely of
39 the community custody to which the offender may become eligible, in

1 accordance with RCW 9.94A.150 (1) and (2). Any period of community
2 custody actually served shall be credited against the community
3 placement portion of the sentence. Unless a condition is waived by the
4 court, the terms of community placement for offenders sentenced
5 pursuant to this section shall include the following conditions:

6 (i) The offender shall report to and be available for contact with
7 the assigned community corrections officer as directed;

8 (ii) The offender shall work at department of corrections-approved
9 education, employment, and/or community service;

10 (iii) The offender shall not consume controlled substances except
11 pursuant to lawfully issued prescriptions;

12 (iv) An offender in community custody shall not unlawfully possess
13 controlled substances;

14 (v) The offender shall pay supervision fees as determined by the
15 department of corrections; and

16 (vi) The residence location and living arrangements are subject to
17 the prior approval of the department of corrections during the period
18 of community placement.

19 (c) As a part of any sentence imposed under (a) or (b) of this
20 subsection, the court may also order any of the following special
21 conditions:

22 (i) The offender shall remain within, or outside of, a specified
23 geographical boundary;

24 (ii) The offender shall not have direct or indirect contact with
25 the victim of the crime or a specified class of individuals;

26 (iii) The offender shall participate in crime-related treatment or
27 counseling services;

28 (iv) The offender shall not consume alcohol;

29 (v) The offender shall comply with any crime-related prohibitions;

30 or

31 (vi) For an offender convicted of a felony sex offense against a
32 minor victim after June 6, 1996, the offender shall comply with any
33 terms and conditions of community placement imposed by the department
34 of corrections relating to contact between the sex offender and a minor
35 victim or a child of similar age or circumstance as a previous victim.

36 (d) Prior to transfer to, or during, community placement, any
37 conditions of community placement may be removed or modified so as not
38 to be more restrictive by the sentencing court, upon recommendation of
39 the department of corrections.

1 (10)(a) When a court sentences a person to the custody of the
2 department of corrections for an offense categorized as a sex offense
3 committed on or after June 6, 1996, the court shall, in addition to
4 other terms of the sentence, sentence the offender to community custody
5 for three years or up to the period of earned early release awarded
6 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
7 community custody shall begin either upon completion of the term of
8 confinement or at such time as the offender is transferred to community
9 custody in lieu of earned early release in accordance with RCW
10 9.94A.150 (1) and (2).

11 (b) Unless a condition is waived by the court, the terms of
12 community custody shall be the same as those provided for in subsection
13 (9)(b) of this section and may include those provided for in subsection
14 (9)(c) of this section. As part of any sentence that includes a term
15 of community custody imposed under this subsection, the court shall
16 also require the offender to comply with any conditions imposed by the
17 department of corrections under subsection (14) of this section.

18 (c) At any time prior to the completion of a sex offender's term of
19 community custody, if the court finds that public safety would be
20 enhanced, the court may impose and enforce an order extending any or
21 all of the conditions imposed pursuant to this section for a period up
22 to the maximum allowable sentence for the crime as it is classified in
23 chapter 9A.20 RCW, regardless of the expiration of the offender's term
24 of community custody. If a violation of a condition extended under
25 this subsection occurs after the expiration of the offender's term of
26 community custody, it shall be deemed a violation of the sentence for
27 the purposes of RCW 9.94A.195 and may be punishable as contempt of
28 court as provided for in RCW 7.21.040.

29 (11) If the court imposes a sentence requiring confinement of
30 thirty days or less, the court may, in its discretion, specify that the
31 sentence be served on consecutive or intermittent days. A sentence
32 requiring more than thirty days of confinement shall be served on
33 consecutive days. Local jail administrators may schedule court-ordered
34 intermittent sentences as space permits.

35 (12) If a sentence imposed includes payment of a legal financial
36 obligation, the sentence shall specify the total amount of the legal
37 financial obligation owed, and shall require the offender to pay a
38 specified monthly sum toward that legal financial obligation.
39 Restitution to victims shall be paid prior to any other payments of

1 monetary obligations. Any legal financial obligation that is imposed
2 by the court may be collected by the department, which shall deliver
3 the amount paid to the county clerk for credit. The offender's
4 compliance with payment of legal financial obligations shall be
5 supervised by the department. All monetary payments ordered shall be
6 paid no later than ten years after the last date of release from
7 confinement pursuant to a felony conviction or the date the sentence
8 was entered. Independent of the department, the party or entity to
9 whom the legal financial obligation is owed shall have the authority to
10 utilize any other remedies available to the party or entity to collect
11 the legal financial obligation. Nothing in this section makes the
12 department, the state, or any of its employees, agents, or other
13 persons acting on their behalf liable under any circumstances for the
14 payment of these legal financial obligations. If an order includes
15 restitution as one of the monetary assessments, the county clerk shall
16 make disbursements to victims named in the order.

17 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
18 court may not impose a sentence providing for a term of confinement or
19 community supervision or community placement which exceeds the
20 statutory maximum for the crime as provided in chapter 9A.20 RCW.

21 (14) All offenders sentenced to terms involving community
22 supervision, community service, community placement, or legal financial
23 obligation shall be under the supervision of the department of
24 corrections and shall follow explicitly the instructions and conditions
25 of the department of corrections.

26 (a) The instructions shall include, at a minimum, reporting as
27 directed to a community corrections officer, remaining within
28 prescribed geographical boundaries, notifying the community corrections
29 officer of any change in the offender's address or employment, and
30 paying the supervision fee assessment.

31 (b) For sex offenders sentenced to terms involving community
32 custody for crimes committed on or after June 6, 1996, the department
33 may include, in addition to the instructions in (a) of this subsection,
34 any appropriate conditions of supervision, including but not limited
35 to, prohibiting the offender from having contact with any other
36 specified individuals or specific class of individuals. The conditions
37 authorized under this subsection (14)(b) may be imposed by the
38 department prior to or during a sex offender's community custody term.
39 If a violation of conditions imposed by the court or the department

1 pursuant to subsection (10) of this section occurs during community
2 custody, it shall be deemed a violation of community placement for the
3 purposes of RCW 9.94A.207 and shall authorize the department to
4 transfer an offender to a more restrictive confinement status as
5 provided in RCW 9.94A.205. At any time prior to the completion of a
6 sex offender's term of community custody, the department may recommend
7 to the court that any or all of the conditions imposed by the court or
8 the department pursuant to subsection (10) of this section be continued
9 beyond the expiration of the offender's term of community custody as
10 authorized in subsection (10)(c) of this section.

11 The department may require offenders to pay for special services
12 rendered on or after July 25, 1993, including electronic monitoring,
13 day reporting, and telephone reporting, dependent upon the offender's
14 ability to pay. The department may pay for these services for
15 offenders who are not able to pay.

16 (15) All offenders sentenced to terms involving community
17 supervision, community service, or community placement under the
18 supervision of the department of corrections shall not own, use, or
19 possess firearms or ammunition. Offenders who own, use, or are found
20 to be in actual or constructive possession of firearms or ammunition
21 shall be subject to the appropriate violation process and sanctions.
22 "Constructive possession" as used in this subsection means the power
23 and intent to control the firearm or ammunition. "Firearm" as used in
24 this subsection means a weapon or device from which a projectile may be
25 fired by an explosive such as gunpowder.

26 (16) The sentencing court shall give the offender credit for all
27 confinement time served before the sentencing if that confinement was
28 solely in regard to the offense for which the offender is being
29 sentenced.

30 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
31 governing whether sentences are to be served consecutively or
32 concurrently is an exceptional sentence subject to the limitations in
33 subsections (2) and (3) of this section, and may be appealed by the
34 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

35 (18) The court shall order restitution whenever the offender is
36 convicted of a felony that results in injury to any person or damage to
37 or loss of property, whether the offender is sentenced to confinement
38 or placed under community supervision, unless extraordinary
39 circumstances exist that make restitution inappropriate in the court's

1 judgment. The court shall set forth the extraordinary circumstances in
2 the record if it does not order restitution.

3 (19) As a part of any sentence, the court may impose and enforce an
4 order that relates directly to the circumstances of the crime for which
5 the offender has been convicted, prohibiting the offender from having
6 any contact with other specified individuals or a specific class of
7 individuals for a period not to exceed the maximum allowable sentence
8 for the crime, regardless of the expiration of the offender's term of
9 community supervision or community placement.

10 (20) In any sentence of partial confinement, the court may require
11 the defendant to serve the partial confinement in work release, in a
12 program of home detention, on work crew, or in a combined program of
13 work crew and home detention.

14 (21) All court-ordered legal financial obligations collected by the
15 department and remitted to the county clerk shall be credited and paid
16 where restitution is ordered. Restitution shall be paid prior to any
17 other payments of monetary obligations.

18 **Sec. 5.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are
19 each reenacted and amended to read as follows:

20 The offender score is measured on the horizontal axis of the
21 sentencing grid. The offender score rules are as follows:

22 The offender score is the sum of points accrued under this section
23 rounded down to the nearest whole number.

24 (1) A prior conviction is a conviction which exists before the date
25 of sentencing for the offense for which the offender score is being
26 computed. Convictions entered or sentenced on the same date as the
27 conviction for which the offender score is being computed shall be
28 deemed "other current offenses" within the meaning of RCW 9.94A.400.

29 (2) (~~Except as provided in subsection (4) of this section,~~) Class
30 A and sex prior felony convictions shall always be included in the
31 offender score. Class B prior felony convictions other than sex
32 offenses shall not be included in the offender score, if since the last
33 date of release from confinement (including full-time residential
34 treatment) pursuant to a felony conviction, if any, or entry of
35 judgment and sentence, the offender had spent ten consecutive years in
36 the community without committing any crime that subsequently results in
37 a conviction. Class C prior felony convictions other than sex offenses
38 shall not be included in the offender score if, since the last date of

1 release from confinement (including full-time residential treatment)
2 pursuant to a felony conviction, if any, or entry of judgment and
3 sentence, the offender had spent five consecutive years in the
4 community without committing any crime that subsequently results in a
5 conviction. Serious traffic convictions shall not be included in the
6 offender score if, since the last date of release from confinement
7 (including full-time residential treatment) pursuant to a felony
8 conviction, if any, or entry of judgment and sentence, the offender
9 spent five years in the community without committing any crime that
10 subsequently results in a conviction. This subsection applies to both
11 adult and juvenile prior convictions.

12 (3) Out-of-state convictions for offenses shall be classified
13 according to the comparable offense definitions and sentences provided
14 by Washington law. Federal convictions for offenses shall be
15 classified according to the comparable offense definitions and
16 sentences provided by Washington law. If there is no clearly
17 comparable offense under Washington law or the offense is one that is
18 usually considered subject to exclusive federal jurisdiction, the
19 offense shall be scored as a class C felony equivalent if it was a
20 felony under the relevant federal statute.

21 ~~((4) ((Always include juvenile convictions for sex offenses and
22 serious violent offenses. Include other class A juvenile felonies only
23 if the offender was 15 or older at the time the juvenile offense was
24 committed. Include other class B and C juvenile felony convictions
25 only if the offender was 15 or older at the time the juvenile offense
26 was committed and the offender was less than 23 at the time the offense
27 for which he or she is being sentenced was committed.~~

28 ~~((5)))~~ Score prior convictions for felony anticipatory offenses
29 (attempts, criminal solicitations, and criminal conspiracies) the same
30 as if they were convictions for completed offenses.

31 ~~((6)))~~ (5)(a) In the case of multiple prior convictions, for the
32 purpose of computing the offender score, count all convictions
33 separately, except:

34 (i) Prior ~~((adult))~~ offenses which were found, under RCW
35 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
36 counted as one offense, the offense that yields the highest offender
37 score. The current sentencing court shall determine with respect to
38 other prior adult offenses for which sentences were served concurrently
39 or prior juvenile offenses for which sentences were served

1 consecutively, whether those offenses shall be counted as one offense
2 or as separate offenses using the "same criminal conduct" analysis
3 found in RCW 9.94A.400(1)(a), and if the court finds that they shall be
4 counted as one offense, then the offense that yields the highest
5 offender score shall be used. The current sentencing court may presume
6 that such other prior ~~((adult))~~ offenses were not the same criminal
7 conduct from sentences imposed on separate dates, or in separate
8 counties or jurisdictions, or in separate complaints, indictments, or
9 informations;

10 ~~((ii))~~ ~~((Juvenile prior convictions entered or sentenced on the same~~
11 ~~date shall count as one offense, the offense that yields the highest~~
12 ~~offender score, except for juvenile prior convictions for violent~~
13 ~~offenses with separate victims, which shall count as separate offenses;~~
14 ~~and~~

15 ~~((iii)))~~ In the case of multiple prior convictions for offenses
16 committed before July 1, 1986, for the purpose of computing the
17 offender score, count all adult convictions served concurrently as one
18 offense, and count all juvenile convictions entered on the same date as
19 one offense. Use the conviction for the offense that yields the
20 highest offender score.

21 (b) As used in this subsection ~~((+6+))~~ (5), "served concurrently"
22 means that: (i) The latter sentence was imposed with specific
23 reference to the former; (ii) the concurrent relationship of the
24 sentences was judicially imposed; and (iii) the concurrent timing of
25 the sentences was not the result of a probation or parole revocation on
26 the former offense.

27 ~~((+7+))~~ (6) If the present conviction is one of the anticipatory
28 offenses of criminal attempt, solicitation, or conspiracy, count each
29 prior conviction as if the present conviction were for a completed
30 offense.

31 ~~((+8+))~~ (7) If the present conviction is for a nonviolent offense
32 and not covered by subsection ~~((+12+))~~ (11) or ~~((+13+))~~ (12) of this
33 section, count one point for each adult prior felony conviction and one
34 point for each juvenile prior violent felony conviction and ½ point for
35 each juvenile prior nonviolent felony conviction.

36 ~~((+9+))~~ (8) If the present conviction is for a violent offense and
37 not covered in subsection ~~((+10+), (+11+), (+12+), or (+13+))~~ (9), (10),
38 (11), or (12) of this section, count two points for each prior adult
39 and juvenile violent felony conviction, one point for each prior adult

1 nonviolent felony conviction, and ½ point for each prior juvenile
2 nonviolent felony conviction.

3 (~~((+10+))~~) (9) If the present conviction is for Murder 1 or 2,
4 Assault 1, Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or
5 Rape 1, count three points for prior adult and juvenile convictions for
6 crimes in these categories, two points for each prior adult and
7 juvenile violent conviction (not already counted), one point for each
8 prior adult nonviolent felony conviction, and ½ point for each prior
9 juvenile nonviolent felony conviction.

10 (~~((+11+))~~) (10) If the present conviction is for Burglary 1, count
11 prior convictions as in subsection (~~((+9+))~~) (8) of this section; however
12 count two points for each prior adult Burglary 2 or residential
13 burglary conviction, and one point for each prior juvenile Burglary 2
14 or residential burglary conviction.

15 (~~((+12+))~~) (11) If the present conviction is for a felony traffic
16 offense count two points for each adult or juvenile prior conviction
17 for Vehicular Homicide or Vehicular Assault; for each felony offense or
18 serious traffic offense, count one point for each adult and ½ point for
19 each juvenile prior conviction.

20 (~~((+13+))~~) (12) If the present conviction is for a drug offense count
21 three points for each adult prior felony drug offense conviction and
22 two points for each juvenile drug offense. All other adult and
23 juvenile felonies are scored as in subsection (~~((+9+))~~) (8) of this
24 section if the current drug offense is violent, or as in subsection
25 (~~((+8+))~~) (7) of this section if the current drug offense is nonviolent.

26 (~~((+14+))~~) (13) If the present conviction is for Willful Failure to
27 Return from Furlough, RCW 72.66.060, Willful Failure to Return from
28 Work Release, RCW 72.65.070, or Escape from Community Custody, RCW
29 72.09.310, count only prior escape convictions in the offender score.
30 Count adult prior escape convictions as one point and juvenile prior
31 escape convictions as ½ point.

32 (~~((+15+))~~) (14) If the present conviction is for Escape 1, RCW
33 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as
34 one point and juvenile prior convictions as ½ point.

35 (~~((+16+))~~) (15) If the present conviction is for Burglary 2 or
36 residential burglary, count priors as in subsection (~~((+8+))~~) (7) of this
37 section; however, count two points for each adult and juvenile prior
38 Burglary 1 conviction, two points for each adult prior Burglary 2 or

1 residential burglary conviction, and one point for each juvenile prior
2 Burglary 2 or residential burglary conviction.

3 ~~((+17))~~ (16) If the present conviction is for a sex offense, count
4 priors as in subsections ~~((+8))~~ (7) through ~~((+16))~~ (15) of this
5 section; however count three points for each adult and juvenile prior
6 sex offense conviction.

7 ~~((+18))~~ (17) If the present conviction is for an offense committed
8 while the offender was under community placement, add one point.

9 **Sec. 6.** RCW 13.04.011 and 1992 c 205 s 119 are each amended to
10 read as follows:

11 For purposes of this title:

12 (1) "Adjudication" has the same meaning as "conviction" in RCW
13 9.94A.030, and the terms must be construed identically and used
14 interchangeably;

15 (2) Except as specifically provided in RCW 13.40.020 and chapter
16 13.24 RCW, ~~((as now or hereafter amended,))~~ "juvenile," "youth," and
17 "child" mean any individual who is under the chronological age of
18 eighteen years;

19 ~~((+2))~~ (3) "Juvenile offender" and "juvenile offense" have the
20 meaning ascribed in RCW 13.40.020;

21 ~~((+3))~~ (4) "Court" when used without further qualification means
22 the juvenile court judge(s) or commissioner(s);

23 ~~((+4))~~ (5) "Parent" or "parents," except as used in chapter 13.34
24 RCW, ~~((as now or hereafter amended,))~~ means that parent or parents who
25 have the right of legal custody of the child. "Parent" or "parents" as
26 used in chapter 13.34 RCW, means the biological or adoptive parents of
27 a child unless the legal rights of that person have been terminated by
28 judicial proceedings;

29 ~~((+5))~~ (6) "Custodian" means that person who has the legal right
30 to custody of the child.

31 **Sec. 7.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
32 each reenacted and amended to read as follows:

33 (1) Except as provided in ~~((subsection (2) of))~~ this section, the
34 juvenile courts in ~~((the several counties of))~~ this state~~((,))~~ shall
35 have exclusive original jurisdiction over all proceedings:

36 (a) Under the interstate compact on placement of children as
37 provided in chapter 26.34 RCW;

1 (b) Relating to children alleged or found to be dependent as
2 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

3 (c) Relating to the termination of a parent and child relationship
4 as provided in RCW 13.34.180 through 13.34.210;

5 (d) To approve or disapprove out-of-home placement as provided in
6 RCW 13.32A.170;

7 (e) Relating to juveniles alleged or found to have committed
8 offenses, traffic or civil infractions, or violations as provided in
9 RCW 13.40.020 through 13.40.230, unless:

10 (i) The juvenile court transfers jurisdiction of a particular
11 juvenile to adult criminal court pursuant to RCW 13.40.110; or

12 (ii) The statute of limitations applicable to adult prosecution for
13 the offense, traffic or civil infraction, or violation has expired; or

14 (iii) The alleged offense or infraction is a traffic, fish,
15 boating, or game offense, or traffic or civil infraction committed by
16 a juvenile sixteen years of age or older and would, if committed by an
17 adult, be tried or heard in a court of limited jurisdiction, in which
18 instance the appropriate court of limited jurisdiction shall have
19 jurisdiction over the alleged offense or infraction, and no guardian ad
20 litem is required in any such proceeding due to the juvenile's age:

21 PROVIDED, That if such an alleged offense or infraction and an alleged
22 offense or infraction subject to juvenile court jurisdiction arise out
23 of the same event or incident, the juvenile court may have jurisdiction
24 of both matters: PROVIDED FURTHER, That the jurisdiction under this
25 subsection does not constitute "transfer" or a "decline" for purposes
26 of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER,
27 That courts of limited jurisdiction which confine juveniles for an
28 alleged offense or infraction may place juveniles in juvenile detention
29 facilities under an agreement with the officials responsible for the
30 administration of the juvenile detention facility in RCW 13.04.035 and
31 13.20.060; or

32 (iv) The juvenile is sixteen or seventeen years old and the alleged
33 offense is:

34 (A) A serious violent offense as defined in RCW 9.94A.030
35 (~~((committed on or after June 13, 1994; or))~~);

36 (B) A violent offense as defined in RCW 9.94A.030 (~~((committed on or~~
37 ~~after June 13, 1994,))~~) and the juvenile has a criminal history
38 consisting of: (I) One or more prior serious violent offenses; (II)
39 two or more prior violent offenses; or (III) three or more of any

1 combination of the following offenses: Any class A felony, any class
2 B felony, vehicular assault, or manslaughter in the second degree, all
3 of which must have been committed after the juvenile's thirteenth
4 birthday and prosecuted separately;

5 (C) Robbery in the first degree, rape of a child in the first
6 degree, or drive-by shooting, committed on or after the effective date
7 of this section;

8 (D) Burglary in the first degree committed on or after the
9 effective date of this section, and the juvenile has a criminal history
10 consisting of one or more prior felony or misdemeanor offenses; or

11 (E) Any violent offense as defined in RCW 9.94A.030 committed on or
12 after the effective date of this section, and the juvenile is alleged
13 to have been armed with a firearm.

14 In such a case the adult criminal court shall have exclusive
15 original jurisdiction.

16 If the juvenile challenges the state's determination of the
17 juvenile's criminal history under (e)(iv) of this subsection, the state
18 may establish the offender's criminal history by a preponderance of the
19 evidence. If the criminal history consists of adjudications entered
20 upon a plea of guilty, the state shall not bear a burden of
21 establishing the knowing and voluntariness of the plea;

22 (f) Under the interstate compact on juveniles as provided in
23 chapter 13.24 RCW;

24 (g) Relating to termination of a diversion agreement under RCW
25 13.40.080, including a proceeding in which the divertee has attained
26 eighteen years of age;

27 (h) Relating to court validation of a voluntary consent to an out-
28 of-home placement under chapter 13.34 RCW, by the parent or Indian
29 custodian of an Indian child, except if the parent or Indian custodian
30 and child are residents of or domiciled within the boundaries of a
31 federally recognized Indian reservation over which the tribe exercises
32 exclusive jurisdiction; and

33 (i) Relating to petitions to compel disclosure of information filed
34 by the department of social and health services pursuant to RCW
35 74.13.042.

36 (2) The family court shall have concurrent original jurisdiction
37 with the juvenile court over all proceedings under this section if the
38 superior court judges of a county authorize concurrent jurisdiction as
39 provided in RCW 26.12.010.

1 (3) A juvenile subject to adult superior court jurisdiction under
2 subsection (1)(e)(i) through (iv) of this section, who is detained
3 pending trial, may be detained in a ((county)) detention facility as
4 defined in RCW 13.40.020 pending sentencing or a dismissal.

5 **Sec. 8.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to
6 read as follows:

7 (1) This chapter shall be known and cited as the Juvenile Justice
8 Act of 1977.

9 (2) It is the intent of the legislature that a system capable of
10 having primary responsibility for, being accountable for, and
11 responding to the needs of youthful offenders, as defined by this
12 chapter, be established. It is the further intent of the legislature
13 that youth, in turn, be held accountable for their offenses and that
14 ((both)) communities, families, and the juvenile courts carry out their
15 functions consistent with this intent. To effectuate these policies,
16 the legislature declares the following to be equally important purposes
17 of this chapter:

18 (a) Protect the citizenry from criminal behavior;

19 (b) Provide for determining whether accused juveniles have
20 committed offenses as defined by this chapter;

21 (c) Make the juvenile offender accountable for his or her criminal
22 behavior;

23 (d) Provide for punishment commensurate with the age, crime, and
24 criminal history of the juvenile offender;

25 (e) Provide due process for juveniles alleged to have committed an
26 offense;

27 (f) Provide necessary treatment, supervision, and custody for
28 juvenile offenders;

29 (g) Provide for the handling of juvenile offenders by communities
30 whenever consistent with public safety;

31 (h) Provide for restitution to victims of crime;

32 (i) Develop effective standards and goals for the operation,
33 funding, and evaluation of all components of the juvenile justice
34 system and related services at the state and local levels; ((and))

35 (j) Provide for a clear policy to determine what types of offenders
36 shall receive punishment, treatment, or both, and to determine the
37 jurisdictional limitations of the courts, institutions, and community
38 services; and

1 (k) Encourage the parents, guardian, or custodian of the juvenile
2 to actively participate in the juvenile justice process.

3 **Sec. 9.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
4 each reenacted and amended to read as follows:

5 For the purposes of this chapter:

6 (1) "Serious offender" means a person fifteen years of age or older
7 who has committed an offense which if committed by an adult would be:

8 (a) A class A felony, or an attempt to commit a class A felony;

9 (b) Manslaughter in the first degree; or

10 (c) Assault in the second degree, extortion in the first degree,
11 child molestation in the second degree, kidnapping in the second
12 degree, robbery in the second degree, residential burglary, or burglary
13 in the second degree, where such offenses include the infliction of
14 bodily harm upon another or where during the commission of or immediate
15 withdrawal from such an offense the perpetrator is armed with a deadly
16 weapon;

17 (2) "Community service" means compulsory service, without
18 compensation, performed for the benefit of the community by the
19 offender as punishment for committing an offense. Community service
20 may be performed through public or private organizations or through
21 work crews;

22 (3) "Community supervision" means an order of disposition by the
23 court of an adjudicated youth not committed to the department or an
24 order granting a deferred (~~adjudication pursuant to RCW 13.40.125~~)
25 disposition. A community supervision order for a single offense may be
26 for a period of up to two years for a sex offense as defined by RCW
27 9.94A.030 and up to one year for other offenses. As a mandatory
28 condition of any term of community supervision, the court shall order
29 the juvenile to refrain from committing new offenses. As a mandatory
30 condition of community supervision, the court shall order the juvenile
31 to comply with the mandatory school attendance provisions of chapter
32 28A.225 RCW and to inform the school of the existence of this
33 requirement. Community supervision is an individualized program
34 comprised of one or more of the following:

35 (a) Community-based sanctions;

36 (b) Community-based rehabilitation;

37 (c) Monitoring and reporting requirements;

1 (d) Posting of a probation bond (~~((imposed pursuant to RCW~~
2 ~~13.40.0357))~~);

3 (4) Community-based sanctions may include one or more of the
4 following:

5 (a) A fine, not to exceed one hundred dollars;

6 (b) Community service not to exceed one hundred fifty hours of
7 service;

8 (5) "Community-based rehabilitation" means one or more of the
9 following: Employment; attendance of information classes; literacy
10 classes; counseling, outpatient substance abuse treatment programs,
11 outpatient mental health programs, anger management classes, education
12 or outpatient treatment programs to prevent animal cruelty, or other
13 services; or attendance at school or other educational programs
14 appropriate for the juvenile as determined by the school district.
15 Placement in community-based rehabilitation programs is subject to
16 available funds;

17 (6) "Monitoring and reporting requirements" means one or more of
18 the following: Curfews; requirements to remain at home, school, work,
19 or court-ordered treatment programs during specified hours;
20 restrictions from leaving or entering specified geographical areas;
21 requirements to report to the probation officer as directed and to
22 remain under the probation officer's supervision; and other conditions
23 or limitations as the court may require which may not include
24 confinement;

25 (7) "Confinement" means physical custody by the department of
26 social and health services in a facility operated by or pursuant to a
27 contract with the state, or physical custody in a detention facility
28 operated by or pursuant to a contract with any county. The county may
29 operate or contract with vendors to operate county detention
30 facilities. The department may operate or contract to operate
31 detention facilities for juveniles committed to the department.
32 Pretrial confinement or confinement of less than thirty-one days
33 imposed as part of a disposition or modification order may be served
34 consecutively or intermittently, in the discretion of the court;

35 (8) "Court," ((7)) when used without further qualification, means
36 the juvenile court judge(s) or commissioner(s);

37 (9) "Criminal history" includes all criminal complaints against the
38 respondent for which, prior to the commission of a current offense:

1 (a) The allegations were found correct by a court. If a respondent
2 is convicted of two or more charges arising out of the same course of
3 conduct, only the highest charge from among these shall count as an
4 offense for the purposes of this chapter; or

5 (b) The criminal complaint was diverted by a prosecutor pursuant to
6 the provisions of this chapter on agreement of the respondent and after
7 an advisement to the respondent that the criminal complaint would be
8 considered as part of the respondent's criminal history. A
9 successfully completed deferred adjudication that was entered before
10 the effective date of this section or a deferred disposition shall not
11 be considered part of the respondent's criminal history;

12 (10) "Department" means the department of social and health
13 services;

14 (11) "Detention facility" means a county facility, paid for by the
15 county, for the physical confinement of a juvenile alleged to have
16 committed an offense or an adjudicated offender subject to a
17 disposition or modification order. "Detention facility" includes
18 county group homes, inpatient substance abuse programs, juvenile basic
19 training camps, and electronic monitoring;

20 (12) "Diversion unit" means any probation counselor who enters into
21 a diversion agreement with an alleged youthful offender, or any other
22 person, community accountability board, or other entity except a law
23 enforcement official or entity, with whom the juvenile court
24 administrator has contracted to arrange and supervise such agreements
25 pursuant to RCW 13.40.080, or any person, community accountability
26 board, or other entity specially funded by the legislature to arrange
27 and supervise diversion agreements in accordance with the requirements
28 of this chapter. For purposes of this subsection, "community
29 accountability board" means a board comprised of members of the local
30 community in which the juvenile offender resides. The superior court
31 shall appoint the members. The boards shall consist of at least three
32 and not more than seven members. If possible, the board should include
33 a variety of representatives from the community, such as a law
34 enforcement officer, teacher or school administrator, high school
35 student, parent, and business owner, and should represent the cultural
36 diversity of the local community;

37 (13) "Institution" means a juvenile facility established pursuant
38 to chapters 72.05 and 72.16 through 72.20 RCW;

1 (14) "Intensive supervision program" means a parole program that
2 requires intensive supervision and monitoring, offers an array of
3 individualized treatment and transitional services, and emphasizes
4 community involvement and support in order to reduce the likelihood a
5 juvenile offender will commit further offenses;

6 (15) "Juvenile," "youth," and "child" mean any individual who is
7 under the chronological age of eighteen years and who has not been
8 previously transferred to adult court pursuant to RCW 13.40.110 or who
9 is otherwise under adult court jurisdiction;

10 ~~((+15+))~~ (16) "Juvenile offender" means any juvenile who has been
11 found by the juvenile court to have committed an offense, including a
12 person eighteen years of age or older over whom jurisdiction has been
13 extended under RCW 13.40.300;

14 ~~((+16+))~~ (17) "Manifest injustice" means a disposition that would
15 either impose an excessive penalty on the juvenile or would impose a
16 serious, and clear danger to society in light of the purposes of this
17 chapter;

18 ~~((+17+))~~ (18) "Middle offender" means a person who has committed an
19 offense and who is neither a minor or first offender nor a serious
20 offender;

21 ~~((+18+))~~ (19) "Minor or first offender" means a person whose
22 current offense(s) and criminal history fall entirely within one of the
23 following categories:

24 (a) Four misdemeanors;

25 (b) Two misdemeanors and one gross misdemeanor;

26 (c) One misdemeanor and two gross misdemeanors; and

27 (d) Three gross misdemeanors.

28 For purposes of this definition, current violations shall be
29 counted as misdemeanors;

30 ~~((+19+))~~ (20) "Offense" means an act designated a violation or a
31 crime if committed by an adult under the law of this state, under any
32 ordinance of any city or county of this state, under any federal law,
33 or under the law of another state if the act occurred in that state;

34 ~~((+20+))~~ (21) "Respondent" means a juvenile who is alleged or
35 proven to have committed an offense;

36 ~~((+21+))~~ (22) "Restitution" means financial reimbursement by the
37 offender to the victim, and shall be limited to easily ascertainable
38 damages for injury to or loss of property, actual expenses incurred for
39 medical treatment for physical injury to persons, lost wages resulting

1 from physical injury, and costs of the victim's counseling reasonably
2 related to the offense if the offense is a sex offense. Restitution
3 shall not include reimbursement for damages for mental anguish, pain
4 and suffering, or other intangible losses. Nothing in this chapter
5 shall limit or replace civil remedies or defenses available to the
6 victim or offender;

7 (~~((+22+))~~) (23) "Secretary" means the secretary of the department of
8 social and health services. "Assistant secretary" means the assistant
9 secretary for juvenile rehabilitation for the department;

10 (~~((+23+))~~) (24) "Services" means services which provide alternatives
11 to incarceration for those juveniles who have pleaded or been
12 adjudicated guilty of an offense or have signed a diversion agreement
13 pursuant to this chapter;

14 (~~((+24+))~~) (25) "Sex offense" means an offense defined as a sex
15 offense in RCW 9.94A.030;

16 (~~((+25+))~~) (26) "Sexual motivation" means that one of the purposes
17 for which the respondent committed the offense was for the purpose of
18 his or her sexual gratification;

19 (~~((+26+))~~) (27) "Foster care" means temporary physical care in a
20 foster family home or group care facility as defined in RCW 74.15.020
21 and licensed by the department, or other legally authorized care;

22 (~~((+27+))~~) (28) "Violation" means an act or omission, which if
23 committed by an adult, must be proven beyond a reasonable doubt, and is
24 punishable by sanctions which do not include incarceration;

25 (~~((+28+))~~) (29) "Violent offense" means a violent offense as defined
26 in RCW 9.94A.030;

27 (~~((+29+))~~) (30) "Probation bond" means a bond, posted with sufficient
28 security by a surety justified and approved by the court, to secure the
29 offender's appearance at required court proceedings and compliance with
30 court-ordered community supervision or conditions of release ordered
31 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
32 cash or posting of other collateral in lieu of a bond if approved by
33 the court;

34 (~~((+30+))~~) (31) "Surety" means an entity licensed under state
35 insurance laws or by the state department of licensing, to write
36 corporate, property, or probation bonds within the state, and justified
37 and approved by the superior court of the county having jurisdiction of
38 the case.

39 This section expires July 1, 1998.

Sec. 10. RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are each reenacted and amended to read as follows:

For the purposes of this chapter:

(1) (~~("Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:~~

~~(a) A class A felony, or an attempt to commit a class A felony;~~

~~(b) Manslaughter in the first degree; or~~

~~(c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon;~~

~~(2))~~ "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;

~~((3))~~ (2) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred (~~adjudication pursuant to RCW 13.40.125~~) disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond (~~imposed pursuant to RCW 13.40.0357~~);

1 (~~((4))~~) (3) Community-based sanctions may include one or more of
2 the following:

3 (a) A fine, not to exceed (~~((one))~~) five hundred dollars;

4 (b) Community service not to exceed one hundred fifty hours of
5 service;

6 (~~((5))~~) (4) "Community-based rehabilitation" means one or more of
7 the following: Employment; attendance of information classes; literacy
8 classes; counseling, outpatient substance abuse treatment programs,
9 outpatient mental health programs, anger management classes, education
10 or outpatient treatment programs to prevent animal cruelty, or other
11 services; or attendance at school or other educational programs
12 appropriate for the juvenile as determined by the school district.
13 Placement in community-based rehabilitation programs is subject to
14 available funds;

15 (~~((6))~~) (5) "Monitoring and reporting requirements" means one or
16 more of the following: Curfews; requirements to remain at home,
17 school, work, or court-ordered treatment programs during specified
18 hours; restrictions from leaving or entering specified geographical
19 areas; requirements to report to the probation officer as directed and
20 to remain under the probation officer's supervision; and other
21 conditions or limitations as the court may require which may not
22 include confinement;

23 (~~((7))~~) (6) "Confinement" means physical custody by the department
24 of social and health services in a facility operated by or pursuant to
25 a contract with the state, or physical custody in a detention facility
26 operated by or pursuant to a contract with any county. The county may
27 operate or contract with vendors to operate county detention
28 facilities. The department may operate or contract to operate
29 detention facilities for juveniles committed to the department.
30 Pretrial confinement or confinement of less than thirty-one days
31 imposed as part of a disposition or modification order may be served
32 consecutively or intermittently, in the discretion of the court;

33 (~~((8))~~) (7) "Court,"(~~((7))~~) when used without further qualification,
34 means the juvenile court judge(s) or commissioner(s);

35 (~~((9))~~) (8) "Criminal history" includes all criminal complaints
36 against the respondent for which, prior to the commission of a current
37 offense:

38 (a) The allegations were found correct by a court. If a respondent
39 is convicted of two or more charges arising out of the same course of

1 conduct, only the highest charge from among these shall count as an
2 offense for the purposes of this chapter; or

3 (b) The criminal complaint was diverted by a prosecutor pursuant to
4 the provisions of this chapter on agreement of the respondent and after
5 an advisement to the respondent that the criminal complaint would be
6 considered as part of the respondent's criminal history. A
7 successfully completed deferred adjudication that was entered before
8 the effective date of this section or a deferred disposition shall not
9 be considered part of the respondent's criminal history;

10 ((+10+)) (9) "Department" means the department of social and health
11 services;

12 ((+11+)) (10) "Detention facility" means a county facility, paid
13 for by the county, for the physical confinement of a juvenile alleged
14 to have committed an offense or an adjudicated offender subject to a
15 disposition or modification order. "Detention facility" includes
16 county group homes, inpatient substance abuse programs, juvenile basic
17 training camps, and electronic monitoring;

18 ((+12+)) (11) "Diversion unit" means any probation counselor who
19 enters into a diversion agreement with an alleged youthful offender, or
20 any other person, community accountability board, or other entity
21 except a law enforcement official or entity, with whom the juvenile
22 court administrator has contracted to arrange and supervise such
23 agreements pursuant to RCW 13.40.080, or any person, community
24 accountability board, or other entity specially funded by the
25 legislature to arrange and supervise diversion agreements in accordance
26 with the requirements of this chapter. For purposes of this
27 subsection, "community accountability board" means a board comprised of
28 members of the local community in which the juvenile offender resides.
29 The superior court shall appoint the members. The boards shall consist
30 of at least three and not more than seven members. If possible, the
31 board should include a variety of representatives from the community,
32 such as a law enforcement officer, teacher or school administrator,
33 high school student, parent, and business owner, and should represent
34 the cultural diversity of the local community;

35 ((+13+)) (12) "Institution" means a juvenile facility established
36 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

37 ((+14+)) (13) "Intensive supervision program" means a parole
38 program that requires intensive supervision and monitoring, offers an
39 array of individualized treatment and transitional services, and

1 emphasizes community involvement and support in order to reduce the
2 likelihood a juvenile offender will commit further offenses;

3 (14) "Juvenile," "youth," and "child" mean any individual who is
4 under the chronological age of eighteen years and who has not been
5 previously transferred to adult court pursuant to RCW 13.40.110 or who
6 is otherwise under adult court jurisdiction;

7 (15) "Juvenile offender" means any juvenile who has been found by
8 the juvenile court to have committed an offense, including a person
9 eighteen years of age or older over whom jurisdiction has been extended
10 under RCW 13.40.300;

11 (16) "Local sanctions" means one or more of the following: (a)
12 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
13 0-150 hours of community service; or (d) \$0-\$500 fine;

14 ~~((16))~~ (17) "Manifest injustice" means a disposition that would
15 either impose an excessive penalty on the juvenile or would impose a
16 serious, and clear danger to society in light of the purposes of this
17 chapter;

18 ~~((17))~~ ~~"Middle offender" means a person who has committed an~~
19 ~~offense and who is neither a minor or first offender nor a serious~~
20 ~~offender;~~

21 ~~(18) "Minor or first offender" means a person whose current~~
22 ~~offense(s) and criminal history fall entirely within one of the~~
23 ~~following categories:~~

24 ~~(a) Four misdemeanors;~~

25 ~~(b) Two misdemeanors and one gross misdemeanor;~~

26 ~~(c) One misdemeanor and two gross misdemeanors; and~~

27 ~~(d) Three gross misdemeanors.~~

28 ~~For purposes of this definition, current violations shall be~~
29 ~~counted as misdemeanors;~~

30 ~~(19))~~ (18) "Offense" means an act designated a violation or a
31 crime if committed by an adult under the law of this state, under any
32 ordinance of any city or county of this state, under any federal law,
33 or under the law of another state if the act occurred in that state;

34 ~~((20))~~ (19) "Respondent" means a juvenile who is alleged or
35 proven to have committed an offense;

36 ~~((21))~~ (20) "Restitution" means financial reimbursement by the
37 offender to the victim, and shall be limited to easily ascertainable
38 damages for injury to or loss of property, actual expenses incurred for
39 medical treatment for physical injury to persons, lost wages resulting

1 from physical injury, and costs of the victim's counseling reasonably
2 related to the offense if the offense is a sex offense. Restitution
3 shall not include reimbursement for damages for mental anguish, pain
4 and suffering, or other intangible losses. Nothing in this chapter
5 shall limit or replace civil remedies or defenses available to the
6 victim or offender;

7 (~~((+22+))~~) (21) "Secretary" means the secretary of the department of
8 social and health services. "Assistant secretary" means the assistant
9 secretary for juvenile rehabilitation for the department;

10 (~~((+23+))~~) (22) "Services" means services which provide alternatives
11 to incarceration for those juveniles who have pleaded or been
12 adjudicated guilty of an offense or have signed a diversion agreement
13 pursuant to this chapter;

14 (~~((+24+))~~) (23) "Sex offense" means an offense defined as a sex
15 offense in RCW 9.94A.030;

16 (~~((+25+))~~) (24) "Sexual motivation" means that one of the purposes
17 for which the respondent committed the offense was for the purpose of
18 his or her sexual gratification;

19 (~~((+26+))~~) (25) "Foster care" means temporary physical care in a
20 foster family home or group care facility as defined in RCW 74.15.020
21 and licensed by the department, or other legally authorized care;

22 (~~((+27+))~~) (26) "Violation" means an act or omission, which if
23 committed by an adult, must be proven beyond a reasonable doubt, and is
24 punishable by sanctions which do not include incarceration;

25 (~~((+28+))~~) (27) "Violent offense" means a violent offense as defined
26 in RCW 9.94A.030;

27 (~~((+29+))~~) (28) "Probation bond" means a bond, posted with sufficient
28 security by a surety justified and approved by the court, to secure the
29 offender's appearance at required court proceedings and compliance with
30 court-ordered community supervision or conditions of release ordered
31 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
32 cash or posting of other collateral in lieu of a bond if approved by
33 the court;

34 (~~((+30+))~~) (29) "Surety" means an entity licensed under state
35 insurance laws or by the state department of licensing, to write
36 corporate, property, or probation bonds within the state, and justified
37 and approved by the superior court of the county having jurisdiction of
38 the case.

1 **Sec. 11.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to
2 read as follows:

SCHEDULE A

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE		JUVENILE DISPOSITION
DISPOSITION		CATEGORY FOR ATTEMPT,
OFFENSE		BAILJUMP, CONSPIRACY,
CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
.....		

Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+

Assault and Other Crimes Involving Physical Harm

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
<u>B+</u>	<u>Drive-By Shooting</u> <u>(9A.36.045)</u>	<u>C+</u>
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

1		Burglary and Trespass	
2	B+	Burglary 1 (9A.52.020)	C+
3	<u>B</u>	<u>Residential Burglary</u>	
4		<u>(9A.52.025)</u>	<u>C</u>
5	B	Burglary 2 (9A.52.030)	C
6	D	Burglary Tools (Possession of)	
7		(9A.52.060)	E
8	D	Criminal Trespass 1 (9A.52.070)	E
9	E	Criminal Trespass 2 (9A.52.080)	E
10	<u>C</u>	<u>Vehicle Prowling 1 (9A.52.095)</u>	<u>D</u>
11	D	Vehicle Prowling 2 (9A.52.100)	E
12		Drugs	
13	E	Possession/Consumption of Alcohol	
14		(66.44.270)	E
15	C	Illegally Obtaining Legend Drug	
16		(69.41.020)	D
17	C+	Sale, Delivery, Possession of Legend	
18		Drug with Intent to Sell	
19		(69.41.030)	D+
20	E	Possession of Legend Drug	
21		(69.41.030)	E
22	B+	Violation of Uniform Controlled	
23		Substances Act - Narcotic or	
24		Methamphetamine Sale	
25		(69.50.401(a)(1)(i) or (ii))	B+
26	C	Violation of Uniform Controlled	
27		Substances Act - Nonnarcotic Sale	
28		(69.50.401(a)(1)(iii))	C
29	E	Possession of Marihuana <40 grams	
30		(69.50.401(e))	E
31	C	Fraudulently Obtaining Controlled	
32		Substance (69.50.403)	C
33	C+	Sale of Controlled Substance	
34		for Profit (69.50.410)	C+
35	E	Unlawful Inhalation (9.47A.020)	E
36	B	Violation of Uniform Controlled	
37		Substances Act - Narcotic or	
38		Methamphetamine	

1		Counterfeit Substances	
2		(69.50.401(b)(1)(i) or (ii))	B
3	C	Violation of Uniform Controlled	
4		Substances Act - Nonnarcotic	
5		Counterfeit Substances	
6		(69.50.401(b)(1) (iii), (iv),	
7		(v))	C
8	C	Violation of Uniform Controlled	
9		Substances Act - Possession of a	
10		Controlled Substance	
11		(69.50.401(d))	C
12	C	Violation of Uniform Controlled	
13		Substances Act - Possession of a	
14		Controlled Substance	
15		(69.50.401(c))	C
16		Firearms and Weapons	
17	B	<u>Theft of Firearm (9A.56.300)</u>	C
18	B	<u>Possession of Stolen Firearm</u>	
19		<u>(9A.56.310)</u>	C
20	E	Carrying Loaded Pistol Without	
21		Permit (9.41.050)	E
22	C	Possession of Firearms by Minor (<18)	
23		(9.41.040(1) (b)((iv)) (iii))	C
24	D+	Possession of Dangerous Weapon	
25		(9.41.250)	E
26	D	Intimidating Another Person by use	
27		of Weapon (9.41.270)	E
28		Homicide	
29	A+	Murder 1 (9A.32.030)	A
30	A+	Murder 2 (9A.32.050)	B+
31	B+	Manslaughter 1 (9A.32.060)	C+
32	C+	Manslaughter 2 (9A.32.070)	D+
33	B+	Vehicular Homicide (46.61.520)	C+
34		Kidnapping	
35	A	Kidnap 1 (9A.40.020)	B+
36	B+	Kidnap 2 (9A.40.030)	C+

1	C+	Unlawful Imprisonment	
2		(9A.40.040)	D+
3		Obstructing Governmental Operation	
4	((E))		
5	<u>D</u>	Obstructing a Law Enforcement	
6		Officer (9A.76.020)	E
7	E	Resisting Arrest (9A.76.040)	E
8	B	Introducing Contraband 1	
9		(9A.76.140)	C
10	C	Introducing Contraband 2	
11		(9A.76.150)	D
12	E	Introducing Contraband 3	
13		(9A.76.160)	E
14	B+	Intimidating a Public Servant	
15		(9A.76.180)	C+
16	B+	Intimidating a Witness	
17		(9A.72.110)	C+
18		Public Disturbance	
19	C+	Riot with Weapon (9A.84.010)	D+
20	D+	Riot Without Weapon	
21		(9A.84.010)	E
22	E	Failure to Disperse (9A.84.020)	E
23	E	Disorderly Conduct (9A.84.030)	E
24		Sex Crimes	
25	A	Rape 1 (9A.44.040)	B+
26	A-	Rape 2 (9A.44.050)	B+
27	C+	Rape 3 (9A.44.060)	D+
28	A-	Rape of a Child 1 (9A.44.073)	B+
29	<u>B±</u>	Rape of a Child 2 (9A.44.076)	C+
30	B	Incest 1 (9A.64.020(1))	C
31	C	Incest 2 (9A.64.020(2))	D
32	D+	Indecent Exposure	
33		(Victim <14) (9A.88.010)	E
34	E	Indecent Exposure	
35		(Victim 14 or over) (9A.88.010)	E
36	B+	Promoting Prostitution 1	
37		(9A.88.070)	C+

1	C+	Promoting Prostitution 2	
2		(9A.88.080)	D+
3	E	O & A (Prostitution) (9A.88.030)	E
4	B+	Indecent Liberties (9A.44.100)	C+
5	((B+))		((C+))
6	<u>A-</u>	Child Molestation 1 (9A.44.083)	<u>B+</u>
7	((C+))		
8	<u>B</u>	Child Molestation 2 (9A.44.086)	<u>C±</u>
9		Theft, Robbery, Extortion, and Forgery	
10	B	Theft 1 (9A.56.030)	C
11	C	Theft 2 (9A.56.040)	D
12	D	Theft 3 (9A.56.050)	E
13	B	Theft of Livestock (9A.56.080)	C
14	C	Forgery (9A.60.020)	D
15	A	Robbery 1 (9A.56.200)	B+
16	B+	Robbery 2 (9A.56.210)	C+
17	B+	Extortion 1 (9A.56.120)	C+
18	C+	Extortion 2 (9A.56.130)	D+
19	B	Possession of Stolen Property 1	
20		(9A.56.150)	C
21	C	Possession of Stolen Property 2	
22		(9A.56.160)	D
23	D	Possession of Stolen Property 3	
24		(9A.56.170)	E
25	C	Taking Motor Vehicle Without	
26		Owner's Permission (9A.56.070)	D
27		Motor Vehicle Related Crimes	
28	E	Driving Without a License	
29		(46.20.021)	E
30	C	Hit and Run - Injury	
31		(46.52.020(4))	D
32	D	Hit and Run-Attended	
33		(46.52.020(5))	E
34	E	Hit and Run-Unattended	
35		(46.52.010)	E
36	C	Vehicular Assault (46.61.522)	D
37	C	Attempting to Elude Pursuing	
38		Police Vehicle (46.61.024)	D

1	E	Reckless Driving (46.61.500)	E
2	D	Driving While Under the Influence	
3		(46.61.502 and 46.61.504)	E
4	((D)	Vehicle Prowling (9A.52.100)	E
5	C	Taking Motor Vehicle Without	
6		Owner's Permission (9A.56.070)	D))
7		Other	
8	B	Bomb Threat (9.61.160)	C
9	C	Escape 1 (9A.76.110)	C
10	C	Escape 2 (9A.76.120)	C
11	D	Escape 3 (9A.76.130)	E
12	E	Obscene, Harassing, Etc.,	
13		Phone Calls (9.61.230)	E
14	A	Other Offense Equivalent to an	
15		Adult Class A Felony	B+
16	B	Other Offense Equivalent to an	
17		Adult Class B Felony	C
18	C	Other Offense Equivalent to an	
19		Adult Class C Felony	D
20	D	Other Offense Equivalent to an	
21		Adult Gross Misdemeanor	E
22	E	Other Offense Equivalent to an	
23		Adult Misdemeanor	E
24	V	Violation of Order of Restitution,	
25		Community Supervision, or	
26		Confinement (13.40.200)	V

27 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
28 and the standard range is established as follows:

29 1st escape or attempted escape during 12-month period - 4 weeks
30 confinement

31 2nd escape or attempted escape during 12-month period - 8 weeks
32 confinement

33 3rd and subsequent escape or attempted escape during 12-month
34 period - 12 weeks confinement

35 if the court finds that a respondent has violated terms of an order,
36 it may impose a penalty of up to 30 days of confinement.

SCHEDULE B

PRIOR OFFENSE INCREASE FACTOR

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

TIME SPAN

OFFENSE CATEGORY	0-12 Months	13-24 Months	25 Months or More
---------------------	----------------	-----------------	----------------------

.....

A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

SCHEDULE C

CURRENT OFFENSE POINTS

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

AGE

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
---------------------	---------------	----	----	----	----	----

.....

A+ STANDARD RANGE 180-224 WEEKS

A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57

1	C+	44	44	49	49	55	55
2	C	40	40	45	45	50	50
3	D+	16	18	20	22	24	26
4	D	14	16	18	20	22	24
5	E	4	4	4	6	8	10

JUVENILE SENTENCING STANDARDS

SCHEDULE D-1

This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C.

MINOR/FIRST OFFENDER

OPTION A

STANDARD RANGE

14	Community			
15	Community		Service	
16	Points	Supervision	Hours	Fine
17			
18	1-9	0-3 months	and/or 0-8	and/or 0-\$10
19	10-19	0-3 months	and/or 0-8	and/or 0-\$10
20	20-29	0-3 months	and/or 0-16	and/or 0-\$10
21	30-39	0-3 months	and/or 8-24	and/or 0-\$25
22	40-49	3-6 months	and/or 16-32	and/or 0-\$25
23	50-59	3-6 months	and/or 24-40	and/or 0-\$25
24	60-69	6-9 months	and/or 32-48	and/or 0-\$50
25	70-79	6-9 months	and/or 40-56	and/or 0-\$50
26	80-89	9-12 months	and/or 48-64	and/or 10-\$100
27	90-109	9-12 months	and/or 56-72	and/or 10-\$100

OR

OPTION B

STATUTORY OPTION

- 0-12 Months Community Supervision
- 0-150 Hours Community Service
- 0-100 Fine
- Posting of a Probation Bond

1 A term of community supervision with a maximum of 150 hours, \$100.00
2 fine, and 12 months supervision.

3 OR

4 **OPTION C**
5 **MANIFEST INJUSTICE**

6 When a term of community supervision would effectuate a manifest
7 injustice, another disposition may be imposed. When a judge imposes a
8 sentence of confinement exceeding 30 days, the court shall sentence the
9 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
10 be used to determine the range.

11 **JUVENILE SENTENCING STANDARDS**
12 **SCHEDULE D-2**

13 This schedule may only be used for middle offenders. After the
14 determination is made that a youth is a middle offender, the court has
15 the discretion to select sentencing option A, B, or C.

16 **MIDDLE OFFENDER**

17 **OPTION A**
18 **STANDARD RANGE**

Community					
Community		Service		Confinement	
Points	Supervision	Hours	Fine	Days	Weeks
.....					
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0	
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4	
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4	
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10	
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10	
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20	
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20	
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30	
110-129				8-12	
130-149				13-16	
150-199				21-28	
200-249				30-40	
250-299				52-65	

3 Middle offenders with 110 points or more do not have to be committed.
4 They may be assigned community supervision under option B.
5 All A+ offenses 180-224 weeks

6 OR

7 OPTION B

8 STATUTORY OPTION

- 9 0-12 Months Community Supervision
- 10 0-150 Hours Community Service
- 11 0-100 Fine
- 12 Posting of a Probation Bond

13 If the offender has less than 110 points, the court may impose a
14 determinate disposition of community supervision and/or up to 30 days
15 confinement; in which case, if confinement has been imposed, the court
16 shall state either aggravating or mitigating factors as set forth in
17 RCW 13.40.150.

18 If the middle offender has 110 points or more, the court may impose
19 a disposition under option A and may suspend the disposition on the
20 condition that the offender serve up to thirty days of confinement and
21 follow all conditions of community supervision. If the offender fails
22 to comply with the terms of community supervision, the court may impose
23 sanctions pursuant to RCW 13.40.200 or may revoke the suspended
24 disposition and order execution of the disposition. If the court
25 imposes confinement for offenders with 110 points or more, the court
26 shall state either aggravating or mitigating factors set forth in RCW
27 13.40.150.

28 OR

29 OPTION C

30 MANIFEST INJUSTICE

31 If the court determines that a disposition under option A or B would
32 effectuate a manifest injustice, the court shall sentence the juvenile
33 to a maximum term and the provisions of RCW 13.40.030(2) shall be used
34 to determine the range.

1 **JUVENILE SENTENCING STANDARDS**

2 **SCHEDULE D-3**

3 This schedule may only be used for serious offenders. After the
4 determination is made that a youth is a serious offender, the court has
5 the discretion to select sentencing option A or B.

6 **SERIOUS OFFENDER**

7 **OPTION A**

8 **STANDARD RANGE**

9 Points Institution Time

10

11 0-129	8-12 weeks
12 130-149	13-16 weeks
13 150-199	21-28 weeks
14 200-249	30-40 weeks
15 250-299	52-65 weeks
16 300-374	80-100 weeks
17 375+	103-129 weeks
18 All A+ Offenses	180-224 weeks

19 **OR**

20 **OPTION B**

21 **MANIFEST INJUSTICE**

22 A disposition outside the standard range shall be determined and shall
23 be comprised of confinement or community supervision including posting
24 a probation bond or a combination thereof. When a judge finds a
25 manifest injustice and imposes a sentence of confinement exceeding 30
26 days, the court shall sentence the juvenile to a maximum term, and the
27 provisions of RCW 13.40.030(2) shall be used to determine the range.

28 This section expires July 1, 1998.

29 **Sec. 12.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to
30 read as follows:

((~~SCHEDULE A~~))

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)
.....

Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+

Assault and Other Crimes

Involving Physical Harm

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
<u>B+</u>	<u>Drive-By Shooting</u> <u>(9A.36.045)</u>	<u>C+</u>
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020)	C+
----	------------------------	----

1	B	<u>Residential Burglary</u>	
2		<u>(9A.52.025)</u>	<u>C</u>
3	B	Burglary 2 (9A.52.030)	C
4	D	Burglary Tools (Possession of)	
5		(9A.52.060)	E
6	D	Criminal Trespass 1 (9A.52.070)	E
7	E	Criminal Trespass 2 (9A.52.080)	E
8	<u>C</u>	<u>Vehicle Prowling 1 (9A.52.095)</u>	<u>D</u>
9	D	Vehicle Prowling 2 (9A.52.100)	E
10		Drugs	
11	E	Possession/Consumption of Alcohol	
12		(66.44.270)	E
13	C	Illegally Obtaining Legend Drug	
14		(69.41.020)	D
15	C+	Sale, Delivery, Possession of Legend	
16		Drug with Intent to Sell	
17		(69.41.030)	D+
18	E	Possession of Legend Drug	
19		(69.41.030)	E
20	B+	Violation of Uniform Controlled	
21		Substances Act - Narcotic or	
22		Methamphetamine Sale	
23		(69.50.401(a)(1)(i) or (ii))	B+
24	C	Violation of Uniform Controlled	
25		Substances Act - Nonnarcotic Sale	
26		(69.50.401(a)(1)(iii))	C
27	E	Possession of Marihuana <40 grams	
28		(69.50.401(e))	E
29	C	Fraudulently Obtaining Controlled	
30		Substance (69.50.403)	C
31	C+	Sale of Controlled Substance	
32		for Profit (69.50.410)	C+
33	E	Unlawful Inhalation (9.47A.020)	E
34	B	Violation of Uniform Controlled	
35		Substances Act - Narcotic or	
36		Methamphetamine	
37		Counterfeit Substances	
38		(69.50.401(b)(1)(i) or (ii))	B

1	C	Violation of Uniform Controlled	
2		Substances Act - Nonnarcotic	
3		Counterfeit Substances	
4		(69.50.401(b)(1) (iii), (iv),	
5		(v))	C
6	C	Violation of Uniform Controlled	
7		Substances Act - Possession of a	
8		Controlled Substance	
9		(69.50.401(d))	C
10	C	Violation of Uniform Controlled	
11		Substances Act - Possession of a	
12		Controlled Substance	
13		(69.50.401(c))	C
14		Firearms and Weapons	
15	<u>B</u>	<u>Theft of Firearm (9A.56.300)</u>	<u>C</u>
16	<u>B</u>	<u>Possession of Stolen Firearm</u>	
17		<u>(9A.56.310)</u>	<u>C</u>
18	E	Carrying Loaded Pistol Without	
19		Permit (9.41.050)	E
20	C	Possession of Firearms by Minor (<18)	
21		(9.41.040(1) (b)((iv)) (iii))	C
22	D+	Possession of Dangerous Weapon	
23		(9.41.250)	E
24	D	Intimidating Another Person by use	
25		of Weapon (9.41.270)	E
26		Homicide	
27	A+	Murder 1 (9A.32.030)	A
28	A+	Murder 2 (9A.32.050)	B+
29	B+	Manslaughter 1 (9A.32.060)	C+
30	C+	Manslaughter 2 (9A.32.070)	D+
31	B+	Vehicular Homicide (46.61.520)	C+
32		Kidnapping	
33	A	Kidnap 1 (9A.40.020)	B+
34	B+	Kidnap 2 (9A.40.030)	C+
35	C+	Unlawful Imprisonment	
36		(9A.40.040)	D+

1		Obstructing Governmental Operation	
2	(E)		
3	D	Obstructing a Law Enforcement	
4		Officer (9A.76.020)	E
5	E	Resisting Arrest (9A.76.040)	E
6	B	Introducing Contraband 1	
7		(9A.76.140)	C
8	C	Introducing Contraband 2	
9		(9A.76.150)	D
10	E	Introducing Contraband 3	
11		(9A.76.160)	E
12	B+	Intimidating a Public Servant	
13		(9A.76.180)	C+
14	B+	Intimidating a Witness	
15		(9A.72.110)	C+
16		Public Disturbance	
17	C+	Riot with Weapon (9A.84.010)	D+
18	D+	Riot Without Weapon	
19		(9A.84.010)	E
20	E	Failure to Disperse (9A.84.020)	E
21	E	Disorderly Conduct (9A.84.030)	E
22		Sex Crimes	
23	A	Rape 1 (9A.44.040)	B+
24	A-	Rape 2 (9A.44.050)	B+
25	C+	Rape 3 (9A.44.060)	D+
26	A-	Rape of a Child 1 (9A.44.073)	B+
27	B±	Rape of a Child 2 (9A.44.076)	C+
28	B	Incest 1 (9A.64.020(1))	C
29	C	Incest 2 (9A.64.020(2))	D
30	D+	Indecent Exposure	
31		(Victim <14) (9A.88.010)	E
32	E	Indecent Exposure	
33		(Victim 14 or over) (9A.88.010)	E
34	B+	Promoting Prostitution 1	
35		(9A.88.070)	C+
36	C+	Promoting Prostitution 2	
37		(9A.88.080)	D+
38	E	O & A (Prostitution) (9A.88.030)	E

1	B+	Indecent Liberties (9A.44.100)	C+
2	((B+))		((C+))
3	<u>A-</u>	Child Molestation 1 (9A.44.083)	<u>B+</u>
4	((C+))		
5	<u>B</u>	Child Molestation 2 (9A.44.086)	<u>C±</u>
6		Theft, Robbery, Extortion, and Forgery	
7	B	Theft 1 (9A.56.030)	C
8	C	Theft 2 (9A.56.040)	D
9	D	Theft 3 (9A.56.050)	E
10	B	Theft of Livestock (9A.56.080)	C
11	C	Forgery (9A.60.020)	D
12	A	Robbery 1 (9A.56.200)	B+
13	B+	Robbery 2 (9A.56.210)	C+
14	B+	Extortion 1 (9A.56.120)	C+
15	C+	Extortion 2 (9A.56.130)	D+
16	B	Possession of Stolen Property 1	
17		(9A.56.150)	C
18	C	Possession of Stolen Property 2	
19		(9A.56.160)	D
20	D	Possession of Stolen Property 3	
21		(9A.56.170)	E
22	C	Taking Motor Vehicle Without	
23		Owner's Permission (9A.56.070)	D
24		Motor Vehicle Related Crimes	
25	E	Driving Without a License	
26		(46.20.021)	E
27	C	Hit and Run - Injury	
28		(46.52.020(4))	D
29	D	Hit and Run-Attended	
30		(46.52.020(5))	E
31	E	Hit and Run-Unattended	
32		(46.52.010)	E
33	C	Vehicular Assault (46.61.522)	D
34	C	Attempting to Elude Pursuing	
35		Police Vehicle (46.61.024)	D
36	E	Reckless Driving (46.61.500)	E
37	D	Driving While Under the Influence	
38		(46.61.502 and 46.61.504)	E

~~((D Vehicle Prowling (9A.52.100) E~~
~~C Taking Motor Vehicle Without~~
~~Owner's Permission (9A.56.070) D))~~

Other

B	Bomb Threat (9.61.160)	C
C	Escape 1 (9A.76.110)	C
C	Escape 2 (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)	V

Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks
confinement

2nd escape or attempted escape during 12-month period - 8 weeks
confinement

3rd and subsequent escape or attempted escape during 12-month
period - 12 weeks confinement

if the court finds that a respondent has violated terms of an order,
it may impose a penalty of up to 30 days of confinement.

~~((SCHEDULE B~~
~~PRIOR OFFENSE INCREASE FACTOR~~

~~For use with all CURRENT OFFENSES occurring on or after July 1, 1989.~~

~~TIME SPAN~~

~~OFFENSE — 0-12 — 13-24 — 25 Months~~
~~CATEGORY — Months — Months — or More~~

A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
B-	.6	.3	.2
C+	.5	.2	.2
C	.3	.2	.1
C-	.2	.1	.1
D+	.1	.1	.1

~~Prior history — Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).~~

~~SCHEDULE C~~

~~CURRENT OFFENSE POINTS~~

~~For use with all CURRENT OFFENSES occurring on or after July 1, 1989.~~

~~AGE~~

~~OFFENSE — 12 &~~
~~CATEGORY Under — 13 — 14 — 15 — 16 — 17~~

A+	STANDARD RANGE 180-224 WEEKS					
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
B-	44	44	49	49	55	55
C+	40	40	45	45	50	50
C	16	18	20	22	24	26

D ————— 14 — 16 — 18 — 20 — 22 — 24
E ————— 4 — 4 — 4 — 6 — 8 — 10))

JUVENILE SENTENCING STANDARDS
((SCHEDULE D-1))

This schedule ((may only)) must be used for ((minor/first)) juvenile offenders. ((After the determination is made that a youth is a minor/first offender,)) The court ((has the discretion to)) may select sentencing option A, B, or C.

((MINOR/FIRST OFFENDER

OPTION A
STANDARD RANGE

Community			
Community Service			
Points	Supervision	Hours	Fine
.....			
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 10-\$100
90-109	9-12 months	and/or 56-72	and/or 10-\$100

OR

OPTION B
STATUTORY OPTION

~~0-12 Months Community Supervision~~
~~0-150 Hours Community Service~~
~~0-100 Fine~~
~~Posting of a Probation Bond~~

~~A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.~~

OR

OPTION C

MANIFEST INJUSTICE

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

JUVENILE SENTENCING STANDARDS

SCHEDULE D-2

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Community				
Community		Service		Confinement
Points	Supervision	Hours	Fine	Days Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with 110 points or more do not have to be committed. They may be assigned community supervision under option B.

1 ~~All A+ offenses 180-224 weeks))~~

1
2
3
4
5
6
7
8

OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

<u>A+</u>	<u>180 WEEKS TO AGE 21 YEARS</u>
<u>A</u>	<u>103 WEEKS TO 129 WEEKS</u>
<u>A-</u>	<u>15-36</u>